

Nos. 16-56057 & 16-56287

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MICHAEL SKIDMORE,
AS TRUSTEE FOR THE RANDY CRAIG WOLFE TRUST
PLAINTIFF, APPELLANT AND APPELLEE

vs.

LED ZEPPELIN, *ET AL.*
DEFENDANTS AND APPELLEES
AND
WARNER/CHAPPELL MUSIC, INC.,
DEFENDANT, APPELLEE AND APPELLANT

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
HON. R. GARY KLAUSNER, DISTRICT JUDGE, CASE NO.15-cv-03462 RGK (AGR_x)

SUPPLEMENTAL EXCERPTS OF RECORD – VOL. 1

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Tab 1

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ENTERTAINMENT COMPANY and WARNER
MUSIC GROUP CORP.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MICHAEL SKIDMORE, as Trustee for the Randy Craig Wolfe Trust,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	WARNER/CHAPPELL MUSIC,
vs.)	INC.'S NOTICE OF APPEAL
)	
LED ZEPPELIN, JAMES PATRICK)	
PAGE, ROBERT ANTHONY PLANT,)	
JOHN PAUL JONES, SUPER HYPE)	
PUBLISHING, INC., WARNER)	
MUSIC GROUP CORP., parent of)	
WARNER/CHAPPELL MUSIC, INC.,)	
ATLANTIC RECORDING)	
CORPORATION, RHINO)	
ENTERTAINMENT COMPANY,)	
)	
Defendants.)	

**TO THE CLERK OF THE ABOVE-ENTITLED COURT AND ALL PARTIES
AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that defendant Warner/Chappell Music, Inc., hereby appeals to the United States Court of Appeals for the Ninth Circuit from the Order (Document 312) entered in this action on August 8, 2016, denying defendant Warner/Chappell Music, Inc.'s Motion for Award of Attorneys' Fees and Motion for Award of Additional Costs. A copy of the foregoing Order and the Representation Statement required by Circuit Rule 3-2 are attached to this Notice of Appeal.

The appeal of the plaintiff in this action is presently pending before the Court of Appeals for the Ninth Circuit and docketed as No. 16-56057.

Respectfully Submitted,

Dated: September 6, 2016

/s/ Peter J. Anderson
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ENTERTAINMENT COMPANY and
WARNER MUSIC GROUP CORP.

Tab 2

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 15-03462 RGK (AGR_x)	Date	August 8, 2016
Title	<i>Michael Skidmore v. Led Zeppelin et al.</i>		

Present: The Honorable	R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE
------------------------	--

Sharon L. Williams

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) Order re: Defendants' Motion for Attorney's Fees (DE 293) and Costs (DE 295)

I. INTRODUCTION

On May 31, 2014, Michael Skidmore, as trustee for the Randy Craig Wolfe Trust ("Plaintiff") filed suit against Led Zeppelin, James Patrick Page, Robert Anthony Plant, John Paul Jones, Super Hype Publishing, Inc., and Warner Music Group Corp., which is the parent company of Warner/Chappell Music, Inc., Atlantic Recording Corporation, and Rhino Entertainment Company ("Defendants"). On October 8, 2014, Plaintiff filed a First Amended Complaint ("FAC"). The FAC claims that Defendants' song, *Stairway to Heaven*, infringes another song, *Taurus*, created by the rock band Spirit. The lawsuit alleges: (1) Copyright Infringement and (2) Violation of the Right of Attribution.

On April 8, 2016, this Court issued an Order granting summary judgment in favor of Defendants on the right of attribution claim but denying summary judgment on the copyright infringement claim. The case proceeded to trial, and on June 23, 2016, a jury returned a verdict in favor of Defendants, finding that they had not infringed Plaintiff's copyright in the song *Taurus*.

Presently before the Court are Defendant Warner/Chappell Music, Inc.'s Motions for Attorney's Fees and Costs. Defendant seeks \$613,471 in attorney's fees and \$179,699.06 in costs. For the following reasons, the Court **DENIES** Defendant's Motions.

II. JUDICIAL STANDARD

Attorney fees are generally not recoverable unless they are provided for by statute or enforceable contract. *See Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 241 (1975). Under Federal Rule of Civil Procedure 54(d)(2)(A), "claims for attorneys' fees . . . shall be made by motion unless the substantive law governing the action provides for the recovery of such fees as an element of damages to be proved at trial." Fed. R. Civ. P. 54(d)(2)(A). In a motion for attorney fees, the moving party bears the burden of establishing entitlement to an award and documenting the appropriate rates and hours. *See*

Hensley v. Eckerhart, 461 U.S. 424, 437 (1983). As a result, an award of attorney fees is within the court's discretion and will not be disturbed absent abuse of that discretion. *See Intel Corp. v. Terabyte Int'l., Inc.*, 6 F.3d 614, 621 (9th Cir. 1993).

III. DISCUSSION

Defendant seeks attorney's fees and costs under the Copyright Act, which states that "the court in its discretion may allow the recovery of full costs . . . the court may also award a reasonable attorney's fee to the prevailing party as part of the costs." 17 U.S.C. § 505. "Prevailing plaintiffs and prevailing defendants are to be treated alike, but attorney's fees are to be awarded to prevailing parties only as a matter of the court's discretion." *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 534 (1994). "In deciding whether to award fees under the Copyright Act, the district court should consider, among other things: the degree of success obtained on the claim; frivolousness; motivation; objective reasonableness of factual and legal arguments; and need for compensation and deterrence." *Maljack Prods., Inc. v. GoodTimes Home Video Corp.*, 81 F.3d 881, 889 (9th Cir. 1996). Recently, the Supreme Court has cautioned lower courts to avoid treating objective reasonableness as the controlling factor; instead, the Court explained, "district courts must view all the circumstances of a case on their own terms, in light of the Copyright Act's essential goals." *Kirtsaeng v. John Wiley & Sons, Inc.*, 136 S. Ct. 1979, 1989 (2016).

As recited above, "[t]he Ninth Circuit has invited district courts to consider five factors when determining whether to award fees in copyright cases. Those factors are: (1) 'the degree of success obtained on the claim'; (2) 'frivolousness'; (3) 'motivation'; (4) 'objective reasonableness of factual and legal arguments'; and (5) 'need for compensation and deterrence.'" *Nutrivita Labs., Inc. v. VBS Distribution Inc.*, No. CV-1301635, 2016 WL 595834, at *4 (C.D. Cal. Jan. 27, 2016). Defendant also urges the Court to consider Plaintiff's litigation misconduct. The Court considers all these factors below.

A. Degree of Success

Defendant prevailed on the merits at trial, and Plaintiff has not disputed that this factor weighs in Defendant's favor. Therefore, the degree of success favors granting attorney's fees.

B. Frivolousness/Objective Reasonableness

Defendant maintains that the lawsuit was frivolous and objectively unreasonable from its inception because Plaintiff "relied on public domain material and performance elements not protected by the *Taurus* copyright." (Def.'s Reply ISO Mot. Atty. Fees 8:10-11, ECF No. 306.) The Court disagrees. Plaintiff survived a motion for summary judgment, meaning that this Court considered the merits of the claim and determined that sufficient evidence existed to proceed to trial. Furthermore, at trial, the jury found that Plaintiff owned the copyright in *Taurus* and that Defendants had access to the work. Ultimately, however, the jury found that no substantial similarity existed between the two songs. In doing so, the jury did not determine that Plaintiff's claim impermissibly relied on public domain elements or performance aspects of the musical composition. Therefore, Plaintiff's claim was not frivolous.

Defendant also argues, "[Plaintiff] cannot find shelter in the Court's summary judgment ruling that he raised a triable issue as to substantial similarity: that ruling was expressly based on his experts' reports, which the Court subsequently ruled were inadmissible." (Def.'s Reply ISO Mot. Atty. Fees 8:11-14, ECF No. 306.) The Court rejects this argument. The fact that this Court ruled Plaintiff's expert reports inadmissible after considering and relying on the reports in the summary judgment order does not undermine the validity of the legal conclusion at summary judgment. "At the summary judgment

stage, we do not focus on the admissibility of the evidence's form. We instead focus on the admissibility of its contents.” *Fraser v. Goodale*, 342 F.3d 1032, 1036 (9th Cir. 2003). In the present case, the Court focused only on the content—not the admissibility—of Plaintiff's expert reports, disregarded the unprotected performance elements, and determined that the remaining material created a triable issue of fact as to substantial similarity. Subsequently, in preparation for trial, this Court issued the following order:

Plaintiff's expert reports are inadmissible in their present condition because they considered unprotected elements contained only in the sound recording. If Plaintiff wishes to introduce expert testimony at trial, it must submit reports completely purged of any reliance on the unprotected performance elements in the sound recording. Any comparison analysis must consider *only* the protected elements represented in the musical composition.

(Order Granting Def.s' Mot. In Limine No. 4, ECF No. 203.) Nothing in the Court's evidentiary ruling contradicted or undermined its prior holding on summary judgment. Rather, the Order simply instructed Plaintiff to re-submit expert reports without the unprotected performance elements that this Court had disregarded at the summary judgment stage. Put differently, the Court sought to ensure that any expert report presented to the jury contained only the protected musical elements that were deemed relevant to the similarity analysis in the summary judgment order.

Accordingly, because Plaintiff's claim was not frivolous or objectively unreasonable, these two factors militate against an award of attorney's fees.

C. Motivation

Throughout the course of litigation, Plaintiff has maintained that the purpose of the lawsuit was to secure credit for Randy California, the author of *Taurus*, whose musical composition was allegedly stolen by Defendants. Plaintiff submits evidence that Randy California had considered filing a lawsuit over *Stairway to Heaven* while he was still living, but he ultimately never initiated legal action. (Order Denying Def.'s Mot. Summ. J. 7, ECF No. 159.) After Randy California died, his trust (Plaintiff in this case) would have been equitably prevented from bringing suit because of the lengthy passage of time; however, once the Supreme Court eliminated the equitable defense of laches in copyright claims seeking damages, Plaintiff promptly filed suit. See *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 134 S. Ct. 1962, 1967 (2014).

In rebuttal Defendant contends that Plaintiff was motivated by ignoble ambitions and that the trust initiated the lawsuit to extort a massive settlement from the Led Zeppelin members, even though Randy California never attempted to sue in his lifetime. Defendant, however, has failed to provide any evidence that Plaintiff harbored nefarious motives in bringing this suit. Furthermore, Defendant has not countered the declarations from Plaintiff suggesting that Randy California actually did contemplate a lawsuit.

Therefore, the motivation factor weighs in favor of Plaintiff and militates against granting fees.

D. Need for Compensation and Deterrence

Defendant argues that allowing fees will deter future claimants from asserting stale and meritless copyright claims. The Court rejects this argument because, as explained above, Plaintiff did not act in bad faith by delaying or bringing a “stale” claim; rather, until the Supreme Court's *Petrella* decision in

2014, Plaintiff's claim would have been barred by laches. Moreover, the Court has already held that Plaintiff's claim was not meritless. Therefore, by filing the lawsuit, Plaintiff did not engage in misconduct that would justify the deterrent effect of attorney's fees.

Defendant also contends that compensation is required, as it was forced to bear its own costs after its insurer denied coverage because the claims asserted were so old. Plaintiff has not challenged Defendant's need for compensation; instead, he rebuts that he manages a charitable trust with limited financial resources incapable of satisfying an award of over \$700,000. *See Ets-Hokin v. Skyy Spirits, Inc.*, 323 F.3d 763, 766 (9th Cir. 2003) (holding that the Ninth Circuit considers "whether the chilling effect of attorney's fees may be too great or impose an inequitable burden on an impecunious plaintiff"). Plaintiff has not proffered any evidence to substantiate his claims about the impecunious nature of the trust, nor has he meaningfully opposed Defendant's argument regarding the need for compensation.

Overall, while Defendant has not demonstrated a need for deterrence, it has shown a need for compensation. Accordingly, this factor weighs slightly in favor of granting attorney's fees.

E. Litigation Misconduct

In its most recent word on attorney's fees under the Copyright Act, the Supreme Court counseled lower courts to consider factors beyond the objective reasonableness of a claim. As an example, the Court explained that "a [district] court may order fee-shifting because of a *party's litigation misconduct*, whatever the reasonableness of his claims or defenses." *Kirtsaeng*, 136 S. Ct. at 1988–89 (emphasis added). Seizing on this language, Defendant urges this Court to consider Plaintiff's litigation misconduct in the present case

Throughout the course of litigation, Plaintiff's counsel demonstrated a tenuous grasp of legal ethics and a rudimentary understanding of courtroom decorum. Perhaps most emblematic of counsel's cavalier attitude is the "unclean hands" moment of the trial. During his direct examination of Michael Skidmore (the trustee of the Randy Craig Wolfe Trust) Plaintiff's counsel mentioned that Defendants had raised the defense of unclean hands. Plaintiff's counsel then waved his hands in the air and implored Skidmore, "Please show the jury your hands," as if a showing of manicured fingers would rebut the equitable defense of unclean hands. The gallery audience and jury members audibly responded, prompting this Court to reprimand Plaintiff's counsel—even before Defense counsel could rise to object—and instruct the jury members to disregard counsel's antics. As another example, consider the manner in which Plaintiff's counsel ignored this Court's order excluding evidence about the charitable nature of the Randy Craig Wolfe Trust. Mere minutes after the pretrial conference in which the Court issued its evidentiary ruling, Plaintiff's counsel brazenly appeared before television cameras and declared, "If money is won in this case, it's to be used to buy musical instruments for children who are in need in Ventura County." (Anderson Decl. Ex. 1, ECF No. 293.) In further violation of the Court's order, Plaintiff's counsel elicited testimony from Wolfe's sister at trial about the charitable purpose of the trust. (Anderson Decl. Ex. 4 at 157:14–16, ECF No. 293.) Such misconduct demeans the legal proceedings, distracts from the substantive issues, and squanders the Court's time.

The aforementioned examples are just two of many incidents comprising a litany of tasteless courtroom antics and litigation misconduct. (Def.'s Mot. Atty. Fees 5–12, ECF No. 293.) Accordingly, this factor weighs in favor of Defendant.

F. Weighing the Factors

Overall, two factors (litigation misconduct and degree of success) swing solidly in Defendant's direction, and a third factor (need for compensation) slightly favors Defendant. On the other hand, three factors (motivation, frivolousness, and objective reasonableness) weigh strongly in Plaintiff's favor.

Once the media hype and tangential distractions are stripped away, what remains is an objectively reasonable claim motivated by a desire to recognize Randy California's musical contribution. The claim survived a summary judgment motion and proceeded to a hard-fought trial where a jury found for Plaintiff on ownership and access, but ultimately rendered a verdict for Defendants based on a lack of substantial similarity. Plaintiff was afforded a full opportunity to litigate its theory of infringement and Defendants were entitled to raise a meritorious defense, which ultimately prevailed. Viewing "all the circumstances of [this] case on their own terms, in light of the Copyright Act's essential goals," this Court concludes that attorney's fees are not appropriate. *Kirtsaeng*, 136 S. Ct. at 1989.

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendant's Motion for Attorney's Fees and Costs.

IT IS SO ORDERED.

Initials of Preparer _____

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	
vs.)	DEFENDANT WARNER/
)	CHAPPELL MUSIC, INC.'S REPLY
)	MEMORANDUM OF POINTS AND
LED ZEPPELIN, <i>et al.</i> ,)	AUTHORITIES IN SUPPORT OF
)	MOTION FOR AWARD OF
Defendants.)	ADDITIONAL COSTS;
)	DECLARATION

Date: August 8, 2016
Time: 9:00 a.m.

Courtroom of the Honorable
R. Gary Klausner
United States District Judge

1 **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**

2 Separate from its Motion for attorneys' fees (Doc. 293), defendant
3 Warner/Chappell Music, Inc. ("Warner/Chappell") filed its Motion for additional
4 costs not taxable by the Clerk (Doc. 295). Plaintiff filed no opposition to
5 Warner/Chappell's Motion for additional costs.

6 And, while plaintiff's opposition to the Motion for attorneys' fees refers to
7 "costs," that opposition does not discuss the Motion for additional costs or challenge
8 any of those additional costs. For example, plaintiff's opposition to the Motion for
9 attorneys' fees nowhere discusses, let alone rebuts, the particularized showing that
10 Warner/Chappell made in support of the award of video deposition and other costs
11 not taxable by the Clerk. W/C Memo. *re* Add'l Costs (Doc 295-1) at 4-7, Exh. 1-5.

12 Plaintiff's failure to file opposition to the Motion for additional costs is
13 properly deemed consent to the granting of the Motion. L.R. 7-12.

14 To the extent that plaintiff's opposition to the Motion for attorneys' fees is
15 deemed relevant to the granting or denial of additional costs, additional costs are still
16 properly granted for the alternative and independent reasons stated in
17 Warner/Chappell's Reply in support of the Motion for attorneys' fees, including (1)
18 that the successful defense of plaintiff's claim on the merits furthered the purposes
19 of the Copyright Act, even if plaintiff's claims were objectively reasonable (W/C
20 Reply Memo. *re* Mtn. for Attys' Fees (Doc. 306) at 1-2), or (2) that plaintiff's
21 litigation misconduct supports the award even if plaintiff's claims were objectively
22 reasonable (*id.* at 4-7), or (3) that the *Fogerty* factors support the award (*id.* at 7-10).

23 Warner/Chappell respectfully submits that its Motion for additional costs
24 should be granted and Warner/Chappell should be awarded its non-taxable costs of
25 \$179,699.06, plus any service of process charges, deposition costs and witness fees

26 ///

27 ///

28 ///

1 that Warner/Chappell has applied to the Clerk to tax (Doc. 294), but which the Clerk
2 deems non-taxable.

3 Dated: July 25, 2016

4 /s/ Peter J. Anderson
5 Peter J. Anderson, Esq.
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12 SUPER HYPE PUBLISHING, INC.,
13 ATLANTIC RECORDING CORP., RHINO
14 ENTERTAINMENT COMPANY and
15 WARNER MUSIC GROUP CORP.
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ENTERTAINMENT COMPANY and WARNER
8 MUSIC GROUP CORP.

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12	MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
13	Plaintiff,)	
14	vs.)	DEFENDANT WARNER/
15	LED ZEPPELIN, <i>et al.</i> ,)	CHAPPELL MUSIC, INC.'S REPLY
16	Defendants.)	MEMORANDUM OF POINTS AND
17)	AUTHORITIES IN SUPPORT OF
)	MOTION FOR AWARD OF
)	ATTORNEYS' FEES
)	
)	Date: August 8, 2016
)	Time: 9:00 a.m.

18
19 Courtroom of the Honorable
R. Gary Klausner
20 United States District Judge
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REPLY MEMORANDUM OF POINTS AND AUTHORITIES

1. INTRODUCTION

Plaintiff's opposition misrepresents the facts and law to argue that he pursued reasonable claims, and he ultimately cannot avoid that, even if his 45-year-old claims were reasonable, Warner/Chappell still should be awarded attorneys' fees because the successful defense of those claims furthered the Copyright Act's purpose and, alternatively, because of his litigation misconduct, most of which he concedes.

2. WARNER/CHAPPELL SHOULD BE AWARDED ATTORNEYS' FEES

(a) Even if the Losing Party's Case Was Reasonable, Attorneys' Fees Are Properly Awarded to a Prevailing Party Who Has Furthered the Policies of the Copyright Act

Even if – as plaintiff incorrectly contends – his claims were reasonable, the Supreme Court has soundly rejected the argument that objective reasonableness of the losing party's position “raises a presumption against granting fees.” *Kirtsaeng v. John Wiley & Sons, Inc.*, 136 S. Ct. 1979, 1989 (2016). Instead, “attorneys' fees are properly awarded to a defendant whose successful defense of even a reasonable claim satisfies the “pivotal criterion” of furthering the Copyright Act's purpose. *Fantasy, Inc. v. Fogerty*, 94 F.3d 553, 558 (9th Cir. 1996) (affirming \$1,374,519 fee award to prevailing defendant even though the plaintiff asserted a reasonable claim).

(1) Plaintiff Concedes the Successful Defense of His Claims Furthered the Policies of the Copyright Act

Plaintiff agrees that the Copyright Act's purpose is “enriching the general public through access to creative works,” and includes “demarc[at]ing” “the boundaries of copyright law” Pltf's Oppn. (Doc. 298) at 3:21-24; W/C Memo. (Doc. 293-1) at 3, 4. He does not dispute that defendants prevailed on the merits, not a technical defense. *Fantasy*, 94 F.3d at 555, 559. And he does not dispute that by claiming infringement he challenged the validity of *Stairway to Heaven*'s copyright. W/C Memo. at 3-4. For these reasons, alone, defendants' successful defense fur-

thered the Act's purposes.

Plaintiff also admits that his complaints sought injunctive relief and orders of destruction depriving the public of *Stairway to Heaven*, "one of the greatest songs ever written." W/C Memo. at 4, *quoting* FAC (Doc. 31) at 11, ¶ 56. Successfully defending his claims satisfies the "pivotal criterion" of ensuring public access to creative works. *Fantasy*, 94 F.3d at 558. It strains credulity for plaintiff to now suggest that he might not have sought the requested relief if he had prevailed. Pltf's Oppn. at 15:14-15. In fact, he states he sought "credit" in *Stairway to Heaven* (*id.* at 15:7-8), but he only could have obtained that credit by leveraging a permanent injunction and order of destruction to force an agreement. *UMG Recordings, Inc. v. Disco Azteca Distrib., Inc.*, 446 F. Supp. 2d 1164, 1178 (E.D. Cal. 2006) ("it is well established that the right to attribution is not a protected right under the Copyright Act").

Also, plaintiff concedes that defendants' successful defense confirmed that the "boundaries of copyright law" allow the use of a public domain descending chromatic line and random pitches. W/C Memo. at 4-5. For each of these reasons, the defense of his claims furthered the Act's purposes and fees should be awarded.

**(2) Plaintiff Misrepresents the Supposedly-Unsettled Issue and
Has Refused to Disclose the Trust's Financial Resources**

Plaintiff argues that "[g]ranting attorneys' fees is disfavored when a plaintiff pursues an action in good faith in an unsettled area of law and the parties have alike financial resources." Pltf's Oppn. at 3-4, *quoting* *Perfect 10, Inc. v. Visa Int'l Serv. Ass'n*, No. C 04-00371 JW, 2005 WL 2007932, at *4 (N.D. Cal. Aug. 12, 2005). But, that is contrary to both *Fogerty* and *Kirtsaeng*. *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 521-22 (1994) (rejecting that prevailing defendants may recover fees only if plaintiff's claim was frivolous or in bad faith); *Kirtsaeng*, 136 S. Ct. at 1989 (rejecting denial of fees to prevailing defendants just because plaintiff's claim was objectively reasonable). Further, plaintiff misrepresents the supposedly-unsettled issue and he refused to disclose the Trust's financial resources.

i. Plaintiff Misrepresents that the Scope of a Deposit Copy's Protection Is an "Unsettled" Legal Issue

Plaintiff advises the Court that the scope of copyright protection accorded a 1909 Act deposit copy of a musical composition is "unsettled" and that his view that sound recordings of the composition are relevant was adopted by the district judge in *Williams v. Bridgeport*. Pltf's Oppn. at 2, 10. But, neither is true.

In *Williams*, as here, the Court ruled that recordings are "not protectable publications under the 1909 Act" and "the lead sheets are deemed to define the scope of [the 1909 Act] copyrighted compositions." *Williams v. Bridgeport Music, Inc.*, No. LA CV13-06004 JAK, 2014 WL 7877773, at *9-10 (C.D. Cal. Oct. 30, 2014). And in *Williams*, as here, the Court allowed the parties to submit their experts' performances and recordings of performances of the deposit copies. Anderson Reply Decl. ("Reply Decl.") at 1-2, ¶ 3, & Exh. 7. Plaintiff's reference to unidentified "prior courts" that ruled differently cannot be credited (Pltf's Oppn. at 10 n. 4), and the other district judge to recently rule on the issue ruled just as this Court did. *Fahmy v. Jay Z*, No. 07CV05715-CAS-PJWx, 2015 WL 5680299, at *13-14 (C.D. Cal. Sept. 24, 2015) (copyright limited to transcription; sound recordings excluded).

Plaintiff blatantly misrepresents *Williams* as conflicting with this Court's rulings and as reflecting "unsettled" law.

ii. Plaintiff Cannot and Has Not Established Impecunity

Plaintiff asserts that "[t]he Trust has no way to pay for requested costs and fees, which far exceed the Trust's income and assets." Skidmore Decl. (Doc. 300) at 3:20-21. But, that is a bare conclusion. Further, he successfully refused to respond to discovery as to the Trust's claimed status as a charity and the use of its funds. Order (Doc. 89) denying Defs' Mtn. to Compel. His refusal calls into question his actual use of Trust funds, and estops him from now claiming those funds are inadequate. And his conclusory assertions are impeached by his admissions that the Trust had nearly \$100,000 on hand when he became sole trustee in 2009; that it receives

1 ongoing royalties for all of Randy Wolfe's compositions and Spirit's recordings; and
 2 that for years he has exploited a storage-unit full of unreleased recordings by Wolfe.
 3 Reply Decl. at 2, ¶ 4, & Exh. 8-9. Given his refusal to produce any documents con-
 4 firming that a single penny went to buy instruments for children in Ventura County,
 5 his conclusory claimed inability to pay is properly disregarded.

6 Even if plaintiff's claims and actions were objectively reasonable, which they
 7 were not, defendants' successful defense on the merits furthered the Act's purposes
 8 and, for that reason alone, fees should be awarded. *Fantasy*, 94 F.3d at 558.

9 (b) **An Alternative Basis to Award Fees Is Plaintiff's Extensive and**
 10 **Ongoing Litigation Misconduct**

11 The "court may order fee-shifting because of a party's litigation misconduct,
 12 whatever the reasonableness of his claims or defenses." *Kirtsaeng*, 136 S. Ct. at
 13 1988-89. Plaintiff, who admits carefully monitoring this case (Skidmore Decl. at
 14 2:24-25), concedes multiple instances of his litigation misconduct and makes mate-
 15 rial misrepresentations in his failed attempt to sidestep other instances.

16 (1) **Plaintiff Admits Multiple Instances of Litigation Misconduct**

17 Plaintiff ignores, and therefore admits, his litigation misconduct in (1) suing in
 18 the wrong judicial district; (2) claiming, contrary to fact and law, that Wolfe's 1967
 19 Agreement with Hollenbeck Music is void for failure to obtain court approval; (3)
 20 repeatedly failing to comply with the Court's Orders and Local Rules 16 *re* pretrial;
 21 (4) serving on parties and non-parties bogus "notices" and persons-most-
 22 knowledgeable trial subpoenas; (5) violating the Court's ruling on defendants' Mo-
 23 tion in Limine No. 9 by offering testimony as to millions of dollars of payments his
 24 expert ultimately admitted were paid under a 2008 agreement and, therefore, time-
 25 barred; (6) violating the Court's ruling on defendants' Motion in Limine No. 8 by
 26 repeatedly asking, despite the Court's admonishments, leading questions as to the
 27 supposed charitable use of Trust funds; (7) misrepresenting to the Court and the Jury
 28 that the 1996 renewal of the *Taurus* copyright terminated Wolfe's 1967 Agreement;

1 and (8) misrepresenting to the Court that his expert's recording of the entire *Taurus*
2 composition had not been played to the Jury. W/C Memo. at 5-6, 8-9, 10-11, 11-12.

3 Plaintiff's admitted misconduct, which includes multiple contempts of Court,
4 alone supports the award of attorneys' fees. *Kirtsaeng*, 136 S. Ct. at 1988-89.

5 (2) Plaintiff Does Not Rebut His Other Litigation Misconduct

6 In trying to rebut other instances of his litigation misconduct, plaintiff not on-
7 ly falls far short, but engages in yet additional misconduct by misrepresenting facts.

8 Plaintiff concedes that no reasonable lawyer would contend that evidence of
9 prior claims was relevant. But, he represents to the Court that he never tried to raise
10 past claims and settlements and only sought to prove changes in credits and Led
11 Zeppelin's "songwriting method." Pltf's Oppn. at 15-16. But, credit changes are by
12 settlement, "songwriting method" is plaintiff's euphemism for character assassina-
13 tion and his representation is patently false: his complaints allege prior claims and
14 settlements¹; his experts' reports of the testimony they intended to offer at trial re-
15 ferred to prior claims and settlements²; his expert declarations in opposition to de-
16 fendants' Rule 56 motion referred to prior claims and settlements and his opposition
17 memorandum referred to defendants as "serial" infringers³; his Local Rule 16 Mem-
18 orandum of Contentions of Fact and Law argued that evidence of prior claims "is
19 highly relevant"⁴; and he strenuously opposed preclusion of evidence of prior claims
20 and settlements.⁵ His misrepresentations constitute yet more litigation misconduct.

21 ¹ Complaint at 4, ¶ 10; FAC at 4, ¶ 10.

22 ² Defs' MIL # 4 (Doc. 137) at 7-8, Exh. 2 at 55, Exh. 3 at 61-62, 68-69, & Exh.
23 4 at 75; Defs' MIL # 6 (Doc. 139) at 7-8, Exh. 1 at 13.

24 ³ Johnson Decl. (Doc. 118-9) at 2-3, ¶ 6; Bricklin Decl. (Doc. 118-10) at 3-5, ¶¶
25 9-10; Hanson Decl. (Doc. 119-8) at 2, ¶ 6; Somach Decl. (Doc. 123) at 4-5, ¶¶ 9-12;
26 Pltf's Oppn. Memo. (Doc. 118) at 13:18-25.

27 ⁴ Pltf's Memo. of Contentions of Fact & Law (Doc. 158) at 12:13-16.

28 ⁵ Pltf's Oppn. to MIL # 5 (Doc. 165), arguing supposed relevance of an alleged
"history of copyright infringement and music theft" and "serial plagiarism."

1 Plaintiff admits filing six motions from February 25, 2016 to June 12, 2016 –
2 more than one a month – that were denied or stricken, but argues they were reasona-
3 ble. Not so. Defs’ Oppn. (Doc. 92) at 4-11 (plaintiff’s application to amend Sched-
4 uling Order based on misrepresentations of fact); Defs’ Oppn. (Doc. 116) at 1-2, 3-4,
5 11-15 (plaintiff’s motion for leave to add new parties based on misrepresentations
6 and his omission that adding parties would require amending the Scheduling Order,
7 which the Court already declined to do); Defs’ Oppn. (Doc. 221) at 1-2, 3-9 (plain-
8 tiff’s motion to compel individual defendants to appear at trial a publicity stunt to
9 taint jury pool and based on misrepresentations, including that the individuals re-
10 fused to appear at trial); Defs’ Oppn. (Doc. 234) at 1-4 (plaintiff’s motion to disqual-
11 ify Dr. Ferrara unsupported by law and based on misrepresentations); Defs’ Oppn.
12 (Doc. 235) at 1-2 (plaintiff’s application for reconsideration of grant of partial sum-
13 mary judgment two months earlier based on misrepresentations of facts and law).

14 Plaintiff admits he repeatedly attempted to put on expert and other evidence of
15 the *Taurus* sound recording despite the Court’s Orders (*e.g.*, Doc. 159 at 16-20, Doc.
16 202 at 1 & Doc. 203; Doc. 223 at 16-17), causing Warner/Chappell to incur substan-
17 tial additional fees and costs. His justification for doing so is to repeat his misrep-
18 sentation that *Williams* supports him. Pltf’s Oppn. at 18-19; *see, above* at 3:3-17.

19 He admits that immediately after the Court precluded references at trial to the
20 Trust’s supposed charitable purpose, his counsel publicly stated to the press for
21 broadcast to the public – including the jury pool – that any recovery would be used
22 to buy instruments for needy children in Ventura County. W/C Memo. at 9-10. His
23 assertion that “there is no prohibition” against making that statement (Pltf’s Oppn. at
24 19:10-11), also is false. Cal. R. Prof. Resp. 5-120(A); L. R. 83-3.1.2.

25 He admits that in questioning John Paul Jones at trial plaintiff’s counsel mis-
26 represented that an audio exhibit he played is a 1972 interview when in truth it is a
27 1990 interview, and that plaintiff’s last-minute re-numbering of his exhibits prevent-
28 ed defendants’ counsel from catching that misrepresentation. Plaintiff claims this

1 was a mistake, but presumably he knew his own re-numbered exhibits. And, he re-
2 lied on his misrepresentation that the interview was in 1972 in trying to impeach Mr.
3 Jones' memory of 1971 events. Anderson Exh. 4 (Doc. 293-3) at 81-82.

4 Plaintiff admits that his first witness, Janet Wolfe, violated the Court's in
5 limine ruling by stating the Trust is a charity. W/C Memo. at 10:17-24. Plaintiff's
6 assertion that she blurted it out "of her own volition" (Pltf's Oppn. at 19:13-15) not
7 only strains credulity – including when seen in the context of plaintiff's overall liti-
8 gation misconduct – but ignores plaintiff's commitment to inform his witnesses of
9 the Court's in limine rulings. Reply Decl. at 2, ¶ 5, & Exh. 10.

10 Finally, plaintiff admits showing the jury a 1980s photograph that had been
11 cropped to remove those with whom Robert Plant was actually speaking, to create
12 the false appearance he was speaking with Mark Andes. W/C Memo. at 11:17-23.
13 Plaintiff claims it was an innocent mistake when the photograph was printed from
14 the Getty website. Pltf's Oppn. at 19-20; Fluehr Decl. (Doc. 301). But, plaintiff
15 printed the photograph without alteration before producing it to defendants. And,
16 printing the photograph from that website does not in fact result in it being cropped.
17 Reply Decl. at 2-3, ¶ 6, & Exh. 11-13. Also, he used the cropped photograph and its
18 misimpression that Mr. Plant was talking to Mr. Andes, to assert before the Jury that
19 the photograph "show[s] that they do know each other, and it goes to their relation-
20 ship over the years." Trial Trans. at 298:20-22. Plaintiff's assertion is dependent on
21 the cropping, which is strong evidence the photograph was intentionally altered.

22 Plaintiff's "litigation misconduct," most of which he concedes, is an inde-
23 pendent basis to award attorneys' fees under Section 505, "whatever the reasonable-
24 ness of [his] claims" *Kirtsaeng*, 136 S. Ct. at 1988-89.

25 (c) **The Fogerty Factors Also Confirm that Fees Should Be Awarded**

26 The successful defense of plaintiff's claims furthered the policies of the Copy-
27 right Act and plaintiff engaged in multiple instances of misconduct. Those are each
28 independent reasons to award attorneys' fees even if plaintiff's claims were reasona-

1 ble. In addition, the factors noted by *Fogerty* also cut in favor of the award of fees.

2 **(1) The Degree of Success Obtained on the Claim**

3 Plaintiff concedes that defendants prevailed on the merits. He also concedes
4 his settlement demands are relevant, and although he claims he would have settled
5 for a dollar “and credit,” he does not dispute that sharing the *Stairway to Heaven*
6 copyright was worth millions over time and that he also demanded \$12,000,000.
7 The degree-of-success factor unequivocally cuts in favor of the award of fees.

8 **(2) Frivolousness of Plaintiff’s Position**

9 Plaintiff argues his claims were not frivolous because he lost only on substan-
10 tial similarity. But, he relied on public domain material and performance elements
11 not protected by the *Taurus* copyright. He cannot find shelter in the Court’s sum-
12 mary judgment ruling that he raised a triable issue as to substantial similarity: that
13 ruling was expressly based on his experts’ reports (Order (Doc. 159) at 17-18),
14 which the Court subsequently ruled were inadmissible (Order (Doc. 203)). In short,
15 summary judgment should have been granted.

16 **(3) The Parties’ Respective Motivations**

17 Plaintiff seeks to shield himself as the disinterested fiduciary of a charity, but
18 he refused to produce proof that the Trust is in fact a charity and he refused to show
19 how he has spent the Trust’s funds. *See, above* at 3-4. And, he does not dispute that
20 defendants’ motivation was simply to defend themselves and *Stairway to Heaven*
21 from his claims and ensure the continued availability of *Stairway to Heaven*. The
22 factor of motivation also cuts in favor of awarding fees.

23 **(4) Objective Reasonableness of Factual and Legal Positions**

24 As shown above, plaintiff’s positions in this case were not reasonable. His
25 reliance on *Seltzer v. Green Day, Inc.*, 725 F.3d 1170 (9th Cir. 2013) is misplaced
26 because there the fee award was based only on the incorrect finding the claim was
27 objectively unreasonable. *Id.* at 1181. Here, attorneys’ fees are also sought on al-
28 ternate grounds not relied upon in *Seltzer* and that apply even if plaintiff’s claims

1 were objectively reasonable. *See, above* at 1-7. Plaintiff's reliance on the denial of
2 fees in *Williams* is also misplaced because there attorneys' fees of \$3,536,193 were
3 sought and the losing parties had substantial and reasonable grounds to support the
4 position that there was no infringement. *Williams* (Doc. 554) at 10. Here, Warn-
5 er/Chappell seeks a fraction of that amount, and plaintiff has known from the outset
6 that his case relies on public domain elements, such as a descending chromatic line,
7 and performance elements not protected by the *Taurus* composition copyright.

8 Plaintiff also is incorrect in arguing that defendants took unreasonable posi-
9 tions. He mischaracterizes Messrs. Page and Plant's perfectly understandable inabil-
10 ity to recall people or events 40 or more years ago as denials. Pltf's Oppn. at 7-8.
11 Further, there were reasonable and in fact solid grounds for defendants to question
12 the validity of the Trust; the Trust's standing to sue; the Trust's acquisition of rights
13 the Superior Court ordered were to be distributed to Wolfe's sole heir, his minor son
14 Quinn Wolfe; Randy Wolfe's express and recorded 1991 waiver of the claims plain-
15 tiff sought to pursue; and access. Reply Decl. at 3-6, ¶¶ 7-11. And there is absolute-
16 ly no merit to plaintiff's false allegations that defendants caused Hollenbeck Music
17 to file corrected copyright registrations or that Dr. Ferrara could not serve as defend-
18 ants' expert. *Id.* at 6-7, ¶¶ 12-13; Defs' Oppn. (Doc. 234) at 1-3, 6, ¶ 3.

19 Accordingly, this factor also cuts in favor of the award of attorneys' fees.

20 **(5) The Need in Particular Circumstances to Advance Consider-**
21 **ations of Compensation and Deterrence**

22 Plaintiff argues that his position was supported by the district judge's rulings
23 in *Williams* and that the Trust "has limited funds." Pltf's Oppn. at 12-13. But, plain-
24 tiff misrepresents *Williams* and has refused to provide documents as to the Trust's
25 funds. *See, above* at 3-6. Further, his claimed inability to pay does not preclude the
26 award of attorneys' fees. *Counts v. Meriwether*, No. 2:14-CV-00396-SVW-CW,
27 2016 WL 1165888, at *3 n. 1 (C.D. Cal. Mar. 9, 2016) (granting \$768,836 in attor-
28 neys' fees against another of Mr. Malofiy's clients under § 505, despite their

1 claimed inability to pay). Plaintiff also has not rebutted Warner/Chappell's showing
2 that this factor cuts in favor of awarding fees. W/C Memo. at 15-16.

3 Accordingly, Warner/Chappell respectfully submits that its Motion for attor-
4 neys' fees should be granted.

5 **(d) Plaintiff Does Not Dispute the Amount of Attorneys' Fees Claimed**

6 Plaintiff concedes that apportionment among his copyright claims and right of
7 attribution claims is not appropriate or required. W/C Memo. at 16-17. Plaintiff al-
8 so does not challenge the hourly rates charged by counsel. And, plaintiff does not
9 challenge the total of the attorneys' fees or otherwise suggest they are unreasonable.

10 Plaintiff's only complaint is that the fees include responding to his allegations
11 that the Trust owns the *Taurus* copyright and that defendants had access to *Taurus*,
12 and he suggests the requested fees should be reduced by some unstated amount.
13 Pltf's Oppn. at 20:13-17. However, the attorneys' fees have already been substan-
14 tially reduced by excluding the fees of the individual defendants' New York counsel,
15 who actively participated in their defense from the inception of this case. Defs'
16 Memo. at 1:25-27; Reply Decl. at 7, ¶ 14. Defendants also had a reasonable basis to
17 question ownership and access. *Id.* at 6, ¶ 11. And, a prevailing party's attorneys'
18 fees are not limited to those incurred on the winning argument alone. *Twentieth*
19 *Century Fox Film Corp. v. Entm't Distrib.*, 429 F.3d 869, 884 (9th Cir. 2005) ("Ra-
20 re, indeed, is the litigant who doesn't lose some skirmishes on the way to winning
21 the war"), *cert. denied* 548 U.S. 919 (2006).

22 **3. CONCLUSION**

23 The successful defense of plaintiff's claims furthered the purposes of the Cop-
24 yright Act and the attorneys' fees incurred and sought are reasonable. Accordingly,
25 the Motion should be granted and Warner/Chappell awarded fees of \$613,471.

26 Dated: July 25, 2016

27 /s/ Peter J. Anderson
28 Peter J. Anderson, Esq.
LAW OFFICES OF PETER J. ANDERSON
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Tab 5

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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SKIDMORE, as Trustee for
the RANDY CRAIG WOLFE TRUST,

Plaintiff,

v.

LED ZEPPELIN; JAMES PATRICK
PAGE; ROBERT ANTHONY PLANT;
JOHN PAUL JONES; SUPER HYPE
PUBLISHING, INC.; WARNER MUSIC
GROUP CORP., Parent of
WARNER/CHAPPELL MUSIC, INC.;
ATLANTIC RECORDING
CORPORATION; RHINO
ENTERTAINMENT COMPANY,

Defendants.

Case No. 15-cv-03462 RGK (AGRx)

Hon. R. Gary Klausner

**PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION FOR
COST AND MOTIONS FOR FEES**

Filed concurrently with Declarations;
and [Proposed] Order

Trial Date: August 8, 2016
Time: 1:00 p.m.
Courtroom: 850

I. INTRODUCTION

Plaintiff opposes the attorney's fees motion filed by Defendants as baseless; no award of fees is warranted as this lawsuit was both factually and legally reasonable. The British rule—where the loser pays—is not the law. Instead, under the Copyright Act the Court must consider five nonexclusive *Fogerty* factors when deciding whether, within its discretion, the imposition of costs and fees is appropriate. Defendants, it should be noted, are massive figures in the music industry with almost unlimited funds. In contrast, Plaintiff is a small charity with nominal funds who cannot possibly pay the requested number. Heavily factoring into whether fees should be imposed is whether the lawsuit was “objectively reasonable” and not frivolous. Defendants’ motion attempts to label the lawsuit as objectively unreasonable and frivolous despite a wealth of evidence to the contrary. But an analysis of Defendants’ motion reveals that it is largely conclusory and barely even applies the appropriate *Fogerty* factors to the facts of the case. Defendants, apparently realizing that the *Fogerty* factors do not support an award of fees, instead attempt to support their motion by making misguided, baseless, and irrelevant personal attacks on opposing counsel. These attacks are unbecoming, and in all instances attempt to conclusorily characterize good faith advocacy as “misconduct.” An award of fees on such a basis would chill good faith advocacy and leave attorneys in fear that they could later be punished for good faith argumentation.

Defendants’ motion ignores that this lawsuit was objectively reasonable and in fact was close at all stages. At the summary judgment stage, the Court determined that there were triable issues of fact on the ownership of Taurus, whether Defendants had access to Taurus, and whether Taurus’s deposit copy and Stairway to Heaven were substantially similar. These issues were addressed by the jury which deliberated for over six hours, finding that Plaintiff owned the Taurus copyright and that Defendants had access to the work in question. Defendants, it should be noted, spent much time and money contesting these elements, but at time of trial had little, if any, factual support for their defenses. On the third issue, substantial similarity, the jury found for the Defendants. However, had

1 certain evidentiary rulings and jury instructions on novel issues—such as the scope of the
2 deposit copy—gone Plaintiff’s way, it is entirely possible the jury’s verdict would have
3 been different on substantial similarity. Plaintiff notes that his view of the scope of the
4 expression protected by the deposit transcription of Taurus was one recently endorsed by
5 a prior court in this district, *Williams v. Bridgeport Music* (Blurred Lines case). That this
6 Court reached a different legal conclusion on this novel legal issue supports the notion
7 that reasonable minds can differ.

8 Taken as a whole, and especially considering that the jury agreed with Plaintiff that
9 Defendants had access to Taurus—a key consideration in any copyright case—it is quite
10 clear that this lawsuit was not “objectively unreasonable” or frivolous. It was a hard
11 fought case, concerning novel legal issues. Awarding fees in this case would not serve the
12 interests of the Copyright Act. Plaintiff notes that in a highly similar case that went to
13 verdict, *Williams v. Bridgeport Music*, a Court in the Central District concluded that an
14 award of fees was not appropriate. In addition, Defendants’ unreasonable contest of
15 ownership/access needlessly increased the case’s cost and does not support an award.

16 II. LEGAL STANDARD

17 “The Supreme Court has adopted the ‘evenhanded’ approach to the award of
18 attorney’s fees in copyright cases.” *Berkla v. Corel Corp.*, 302 F.3d 909, 922 (9th Cir.
19 2002) (quoting *Fogerty v. Fantasy, Inc.*, 510 US 517, 534 (1994)). “Prevailing plaintiffs
20 and prevailing defendants are to be treated alike, but attorney’s fees are to be awarded to
21 prevailing parties only as a matter of the court’s discretion.” *Fogerty*, 510 U.S. at 534;
22 *see also Seltzer v. Green Day*, 725 F.3d 1170, 1180 (9th Cir. 1980) (citing *Fogerty*, 510
23 U.S. at 533) (noting that “the Supreme Court rejected the so-called British Rule where the
24 loser pays; rather, attorney’s fees are left up to the discretion of the district court”). In
25 exercising their discretion, “courts deciding whether to award attorney’s fees can look to
26 five non-exclusive factors: (1) the degree of success obtained; (2) frivolousness; (3)
27 motivation; (4) the objective unreasonableness of the losing party’s factual and legal
28 arguments; and (5) the need, in particular circumstances, to advance considerations of

1 compensation and deterrence.” *Seltzer*, 725 F.3d at 1180- 81. These five “*Lieb* factors”
2 are nonexclusive.¹ *Fantasy, Inc. v. Fogerty*, 94 F.3d 553, 558 (9th Cir. 1996). “[C]ourts
3 may not rely on the *Lieb* factors if they are not ‘faithful to the purposes of the Copyright
4 Act.’ Faithfulness to the purposes of the Copyright Act is, therefore, the pivotal
5 criterion.” *Id.* at 558. “The primary objective of the Copyright Act is to encourage the
6 production of original literary, artistic, and musical expression for the good of the
7 public.” *Fogerty*, 510 U.S. at 524. Free use of ideas is a central purpose of the Act:

8 The primary objective of copyright is not to reward the labor of authors, but ‘[t]o
9 promote the Progress of Science and useful Arts.’ ... To this end, copyright assures
10 authors the right to their original expression, but *encourages others to build freely
11 upon the ideas and information conveyed by a work.*

12 *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340, 349–350 (1991)
(emphasis added) (citation omitted).

13 “While it is true that *one* of the goals of the Copyright Act is to discourage
14 infringement, it is by no means the *only* goal of that Act.” *Fogerty*, 510 U.S. at 525
15 (emphasis in original). “[T]he policies served by the Copyright Act are more complex,
16 more measured, than simply maximizing the number of meritorious suits for copyright
17 infringement.” *Id.* at 526. The Supreme Court stated:

18 Creative work is to be encouraged and rewarded, but private motivation must
19 ultimately serve the cause of promoting broad public availability of literature,
20 music, and the other arts. ... [T]he ultimate aim is ... to stimulate artistic creativity
21 for the general public good.

22 *Twentieth Century Music Corp. v. Aiken*, 422 U.S. 151, 156 (1975). Similarly, because
23 copyright law ultimately serves the purpose of enriching the general public through
24 access to creative works, it is particularly important that the boundaries of copyright law
25 be demarcated as clearly as possible.

26 “Granting attorneys’ fees is disfavored when a plaintiff pursues an action in good
27 faith in an unsettled area of law and the parties have alike financial resources.” *Perfect*

28 ¹ The *Lieb* (or *Fogerty*) factors are found in *Lieb v. Topstone Indus.*, 788 F.2d 151, 156
(3d. Cir. 1986).

10, Inc. v. Visa Int’l Ass’n, Inc., 2005 WL 2007932 at *4 (N.D. Cal. Aug. 12, 2005)(citing *Lotus Development Corp. v. Borland International*, 140 F.3d 70, 75 (1st Cir. 1998)). Given the “evenhanded approach” to fees, *Berkla*, 302 F.3d at 922, attorney’s fees likewise must be disfavored where a defendant defends a claim in good faith in an unsettled area of law against a party with like resources. *See id*; *Perfect 10, Inc., v. CCBill, LLC*, 488 F.3d 1102, 1120 (9th Cir. 2007) (“the standards for evaluating whether an award is proper are the same regardless of which party prevails”). When the parties do not have even resources the Ninth Circuit considers “whether an award of attorney’s fees would have a chilling effect that is too great or would impose an inequitable burden on an impecunious plaintiff.” *See Williams v. Bridgeport Music Inc.*, 13-cv-6004 (April 12, 2016) (ECF No. 554) (citing *Ets-Hokin v. Skyy Spirits, Inc.*, 323 F.3d 763, 766 (9th Cir. 2003)). In *Seltzer*, the Ninth Circuit vacated the district court’s award of fees to the prevailing defendant where the plaintiff was not objectively unreasonable, and it was a “close and difficult case.” 725 F.3d at 1181. Frivolousness, bad faith motivation, and objective unreasonableness are important factors. Courts consistently award fees where the losing party’s contentions were frivolous or objectively unreasonable² and deny fees where the losing party’s contentions were not frivolous or objectively unreasonable.³

18 III. APPLICATION

19 The lawsuit was objectively reasonable. “Faithfulness to the purposes of the
20 Copyright Act is ... the pivotal criterion.” *Fantasy*, 94 F.3d at 558. Plaintiff’s lawsuit was

22 ² *See, e.g., Inhale, Inc. v. Starbuzz Tobacco, Inc.*, 75 F.3d 1038, 1042-43 (9th Cir. 2014)
23 (awarding fees where the plaintiff’s claims were frivolous); *Love v. Assoc. Newspapers,*
24 *Ltd.*, 611 F.3d 601, 615 (9th Cir. 2010)(affirming fee award—claims “bordered on
25 frivolous and were not objectively reasonable”); *Perfect 10, Inc. v. Giganews, Inc.*, 2015
26 WL 1746484 at **9-12 (C.D. Cal. March 24, 2015) (awarding fees—plaintiff had
improper motive and claims were objectively unreasonable).

27 ³ *See, e.g., Perfect 10, Inc.*, 488 F.3d at 1120 (affirming denial of fees where the
28 plaintiff’s claims were not objectively unreasonable or frivolous); *Berkla*, 302 F.3d at 924
(same); *Smith v. Jackson*, 84 F.3d 1213, 1221 (9th Cir. 1996) (affirming fee denial where
claims were not frivolous or in bad faith); *Perfect 10, Inc.*, 2005 WL 2007932 at **3-5
(claims were not objectively unreasonable and there were novel legal issues).

1 faithful to the goals of the copyright act. Every inch of this case was closely fought,
2 including ownership, access, and especially substantial similarity. Plaintiff proved two
3 out of the three elements necessary to establish copyright infringement, ownership and
4 access, despite heavy opposition from Defendants. Even on the element where Plaintiff
5 fell short, substantial similarity, there was competing expert testimony, which largely
6 revolved around the novel legal question of the scope of the composition of Taurus
7 protected by the deposit copy transcription. The case largely came down to the Court's
8 evidentiary rulings, of which Plaintiff had no way to predict beforehand, and on which
9 courts in this district differ. Indeed, the Court's ruling on Defendants' pertinent motion in
10 limine was only a tentative ruling.

11 Troublingly, Defendants' motion barely even applies the *Fogerty* factors in
12 requesting fees, choosing instead to attack Plaintiff's counsel. *See* Def. Memo. at p.5-10.
13 These misguided attacks are addressed and refuted *infra*. Plaintiff notes that in a highly
14 similar case that went to verdict, *Williams v. Bridgeport Music*, a Court in the Central
15 District recently concluded that an award of fees was not appropriate given the novelty of
16 the issues in dispute. *See Williams v. Bridgeport Music*, 13-cv-6004 (April 12, 2016)
17 (ECF No. 554), at p.5.

18 A. LAWSUIT WAS OBJECTIVELY REASONABLE AND ALTHOUGH A
19 DEFENSE VERDICT WAS RETURNED PLAINTIFF PROVED TWO
20 OUT OF THREE OF THE NECESSARY ELEMENTS DESPITE
21 DEFENDANTS' HEAVY OPPOSITION

22 That a party lost does not, in itself, show that its claim was objectively
23 unreasonable. *Seltzer*, 725 F.3d at 1181. Rather, "a claim is objectively unreasonable
24 when the party advancing it 'should have known from the outset that its chances of
25 success in the case were *slim to none*.'" *Giganews, Inc.*, 2015 WL 1746484 at *11
26 (emphasis added) (quoting *SOFA Entm't, Inc. v. Dodger Prods., Inc.*, 709 F.3d 1273,
27 1280 (9th Cir. 2013)). In *Seltzer*, the Ninth Circuit held that the plaintiff was not
28 objectively unreasonable where it was a close and difficult case, and the defendant's
transformative fair use "was far from obvious." *Id.* ("There is simply no reason to believe

that *Seltzer* ‘should have known from the outset that [his] chance of success in this case was slim to none[.]’”) (citing *SOFA Entm’t*, 709 F.3d at 1280). Plaintiff’s claims were objectively reasonable. A plaintiff must show ownership of the source copyright, that defendants had a reasonable possibility of access, and that the two works are substantially similar. Defendants vigorously contested all three elements. Despite that opposition, Plaintiff prevailed on the first two elements. Exhibit 4 to Malofiy Decl. –Verdict Form.

i. PLAINTIFF PROVED OWNERSHIP

Plaintiff proved ownership and standing to sue despite Defendants’ opposition. After the close of evidence, Plaintiff asked the court to grant judgment in its favor on ownership. **The Court noted that Defendants had not introduced a single piece of evidence to dispute the Trust’s ownership, and appropriately instructed the jury that the Trust was the owner of Taurus.** *See* Trial Transcript, at p.1171. It is, however, necessary to point out the unreasonable and frivolous nature of Defendants’ contest of ownership, when this element should have been stipulated to. Just as an award of fees based on frivolousness can be appropriate, it follows that fees can be denied when the prevailing party acted frivolously despite ultimately succeeding on other issues. *See Fogerty*, 510 US at 531-32 (stating that frivolousness is determination in deciding to award fees).

By advancing frivolous arguments, *for which they never produced any evidence or even a witness*, Defendants needlessly increased the cost of this litigation in discovery and at trial—yet they now ask for these fees. Consider, the Trust had Court orders proving that it owned Randy Craig Wolfe’s intellectual property, which includes Taurus. *See* ECF No. 149-1, at p.6-9. Defendants nevertheless advanced numerous theories contesting ownership during the case, all of which were completely meritless. These theories included claiming that:

- the Trust had stolen Quinn Wolfe’s inheritance and had unclean hands,
- that Taurus was a work for hire, and
- that Randy Wolfe had abandoned his rights in Taurus.

1 *See, e.g.*, Def. Memo in Support of Summary Judgment, ECF NO. 97-1, at p.5-10.

2 At summary judgment Defendant primary arguments were that Taurus was a work
3 for hire and that Wolfe had abandoned Taurus. They spent a great amount of time in
4 discovery attempting to develop these arguments. However, after summary judgment was
5 denied, Defendants completely dropped these arguments as there was no actual evidence
6 to support them. *See* ECF No. 200-1, at p.17. Defendant always knew that there was no
7 way that Taurus, written before the pertinent work for hire contract, could be a work for
8 hire, and that legally speaking Wolfe had never abandoned or waived his rights in Taurus.
9 Defendants should not be rewarded with costs and fees when they pushed frivolous
10 arguments at summary judgment that they knew were factually and legally indefensible.

11 Even after dropping the work for hire and abandonment arguments, Defendants
12 continued to contest ownership by inappropriately and outrageously attempting to
13 prejudice the jury by claiming that the Trust stole Quinn Wolfe's inheritance and had
14 unclean hands. Defendants repeatedly made this argument but never introduced any
15 evidence to support it. Defendants' accusations are contradicted by the aforementioned
16 California probate proceedings, which definitively establish that the Trust was given
17 ownership of Randy Wolfe's intellectual property. It was particularly underhanded for
18 defendants to continuously argue that the Trust stole Quinn Wolfe's inheritance and had
19 unclean hands (implying that it was for personal gain) without any evidence whatsoever,
20 but to simultaneously object to the evidence that the Trust is a charity which gives its
21 funds to buy disadvantaged children musical instruments.

22 Simply put, the ownership of Taurus was never in doubt. Yet Defendants
23 unreasonably contested this element. Plaintiff's arguments on this point were objectively
24 reasonable and in fact successful as indicated by the Court and jury.

25 ii. PLAINTIFF PROVED ACCESS IN SPITE OF PAGE AND
26 PLANT'S LACK OF CANDOR

27 Likewise, there was never any real doubt that Defendants had a reasonable
28 possibility of access to Taurus. Yet, despite a wealth of evidence to the contrary,

defendants Page and Plant claimed they did not remember Spirit and had little recollection of them as a band. At trial it came out that defendant Page owned or possessed five Spirit albums, including the one that contain Taurus. *See* Trial Transcript, at p.359-61. Not only did Page own the critical album, but Led Zeppelin covered a Spirit song named Fresh Garbage, which was off the same side of that Spirit album that also had Taurus on it. *Id.* at p.401. Spirit was the only rock band that Led Zeppelin ever covered. *Id.* at p.1124-25. Furthermore, Led Zeppelin opened for Spirit during their first US show on December 26, 1968, in Denver. *Id.* at p. 173. Mark Andes testified that Spirit played Taurus at that show. *Id.* at p.268-69. Yet, defendant Page incredibly claimed he was never aware that Spirit played that show—despite the fact that Led Zeppelin was covering Spirit’s song at the time. *Id.* at p.418-19 (“I didn’t know they were on the bill.”). Mr. Page, however, told the Richmond News Leader in 1969, just a few months after the Denver show, that Led Zeppelin had played with Spirit on Led Zeppelin’s first US tour:

Page reflected on Zeppelin’s success. “It’s kind of funny. On our first tour around, we played second fiddle to other groups. Last time we were the second group and Spirit was the Third. Now we’ve each gone up one notch.”

See Exhibit 1 to Malofiy Decl. (Trial Exhibit 100158). Defendant Page’s testimony that he did not know Spirit was at the Denver show does not appear to have been candid.

There were several other moments that called into question defendant Page’s candor, such as where he categorically told the jury that he had never seen the band Spirit play a live show. Trial Transcript, at p.395 (Q: “You don’t remember seeing Spirit live?” A: “I didn’t see Spirit live.”). Defendant Page was clear that this was not a question of memory. But, again, Page’s past words from an April 1970 interview—before *Stairway to Heaven* was written—showed that Page had in fact attended many Spirit shows:

Spirit do some really nice things on albums. They give a really nice atmosphere when they play and I always enjoy seeing them.

ECF No. 124-1, at p.20 (Trial Exhibit 159). Page again reaffirmed this in a 1972 interview when he said, “I saw Spirit a couple of times and thought they were very good” and that they struck him on an emotional level *See Id.* at p.30 (Trial Exhibit 157). This is

not to mention that an eyewitness, former Spirit bass player Larry Knight, testified at trial that Page attended a Spirit show in 1973, had spoken to him at an after party, and that Page had also met Randy Wolfe at that party. Trial Transcript, at p.575-76.

Defendant Plant's testimony was also less than candid regarding his familiarity with Spirit. He claimed he did not remember attending a Spirit show in 1970 in Birmingham, England, but also claimed that he would have been in the back of the club not paying attention to the music with friends. *Id.* at p.1106-1110. Yet, an eyewitness came forward, Michael Ware, who testified that he saw Robert Plant in the front row of the Spirit show enjoying himself immensely. Mr. Ware's un rebutted testimony, coupled with the knowledge that Led Zeppelin covered Spirit's music live, makes defendant Plant's claim that he did not see or remember the show highly unlikely. This is not to mention that Mark Andes has a vivid and distinct memory of playing snooker and hanging out with Plant and many of the members of Spirit that night after the show. Trial Transcript, at p.279.

Bluntly put, Defendants do not deserve attorney's fees when they were less than candid on the stand about their familiarity with Spirit and Taurus. There was a reason for this lack of candor, because an admission that they knew about Taurus would be devastating to their defense of the case. Access and substantial similarity are inextricably linked. *See Three Boys Music Corp. v. Bolton*, 212 F. 3d 477, 485 (9th Cir. 2000). Yet, Defendants are now filing for costs and fees, arguing that this lawsuit was frivolous. It would be highly inequitable to award fees in such a situation where Defendants clearly had access to the work in question, are not being candid about that access (false exculpatory statements are evidence of intent and guilt), but are claiming that Plaintiff's lawsuit was so frivolous that Plaintiff should pay their legal bills. This does not add up.

iii. PLAINTIFF'S SUBSTANTIAL SIMILARITY CASE IS OBJECTIVELY REASONABLE

Plaintiff's claim of substantial similarity was objectively reasonable. Defendants spend less than a page of their brief conclusorily asserting frivolousness and objective

unreasonableness. Def. Memo of Law, at p.13-14, 15. *See Williams v. Bridgeport Music* (stating that conclusory and unsupported assertions do not support a cost and fee motion).

There is no indication whatsoever that Plaintiff should have known from the outset that he would not prevail on substantial similarity, much less that his chances were slim to none. Indeed, the Court concluded in denying summary judgment that reasonable minds could differ on the subject—even when restricting the substantial similarity comparison to strictly the notes on the deposit transcription of Taurus. *See* ECF No. 159, at p.18. Plaintiff also notes that the Court’s rulings on the sound recordings and scope of the deposit copy are relatively uncharted in the case law as this is a new issue that has not been significantly litigated.⁴ Plaintiff relied heavily on the *Williams v. Bridgeport Music* case decided in the Central District of California in 2014, *see* ECF No. 169, at p.2-3, which held that it was permissible to look at the composition in the sound recording of a song as long as it was represented in some way in the deposit copy. *See Williams v. Bridgeport Music*, 13-cv-6004 (April 12, 2016) (ECF No. 554), at p.5. The Blurred Lines court allowed the experts to interpret the deposit copy and create re-recordings of the sound recording which focused on only the protectable compositional elements in the sound recordings which were represented in the deposit copy (excluding performance elements). *Id.* These re-recordings were admissible in the Blurred Lines case and resulted in a verdict for the claimant. It should be noted that Plaintiff tried to introduce such re-recordings in this case but they were ruled inadmissible.

This Court did not agree with the *Williams* court, and instead restricted the comparison to solely the exact notes in the deposit copy of Taurus. Trial Transcript, at p.598-99. Setting aside Plaintiff disagreement with that ruling, there was no way for Plaintiff to know that this would be the ruling of the Court on that critical issue when this suit was filed. *SOFA Entm’t.*, 709 F.3d at 1280 (stating objective unreasonableness is determined if a party knew that at the “outset that its chances of success in the case were slim to none”). For Defendants to conclusorily argue that Plaintiff acted frivolously or

⁴ Indeed, prior courts have permitted the sound recordings to be played in cases applying the 1909 Act.

objectively unreasonable is absurd given the novelty of the issue and that different courts have reached different conclusions on the issue. Plaintiff also had no way of knowing that the Court would select the jury instructions that it did, which undoubtedly had a large effect on the outcome of the case. The Court, for instance, completely excluded any instruction on the inverse ratio rule which provides that as the degree of access shown increases, the burden to prove substantial similarity proportionally decreases. Trial Transcript, at p.1202-03. The Ninth Circuit has explicitly held that the access and substantial similarity are inextricably linked. *See Three Boys Music Corp.*, 212 F. 3d at 485. Plaintiff built a large part of his case around Defendants' obvious access to Taurus, and was unaware that the Court would omit what Plaintiff viewed as a critical instruction. Likewise, Plaintiff's expert Dr. Alexander Stewart focused on the combination of elements in Taurus that were allegedly copied in Stairway to Heaven. *See, e.g.*, Trial Testimony, at p.645. The Court however failed to instruct the jury that even the combination of unprotected elements warrants copyright protection.

Defendants' claims of frivolousness and objective unreasonableness are baseless and use hindsight to make it seem like their prevailing in this case on substantial similarity was preordained. The fact of the matter is that there is nothing in the record that shows that Plaintiff "should have known from the outset that its chances of success in the case were slim to none." *SOFA Entm't.*, 709 F.3d at 1280.

B. PLAINTIFF'S MOTIVATION WAS, AND IS, PURE

Plaintiff's motivation is pure and is to get Randy Wolfe credit and recognition. *See* Declaration of Michael Skidmore. Defendants' motion have fails to show any improper motivation. Indeed, their memorandum's section on motivation is limited to claiming that Plaintiff's motive was "to try to coerce a massive settlement." *See* ECF No. 293-1, at p.14. As Defendants well know, Plaintiff's demand was \$1 dollar and credit, which they categorically rejected. *See* Declaration of Francis Malofiy. Moreover, subsequent demands were based in good faith on the valuation of Dr. Michael Einhorn, a respected economist. Defendants never introduced an expert to support their ludicrously low

1 valuation of this claim (of one of the most popular songs in history) at six figures.
2 Moreover, Defendants repeatedly claimed that the age of this lawsuit means that it is
3 unreasonable. *See* ECF No. 293-1. They ignore that Plaintiff submitted declarations
4 showing that Randy Wolfe sought to sue over this claim, but was told it was not possible
5 due to the statute of limitations. *See* ECF No. 118-5 (Declaration of Linda Mensch). It
6 was not until 2014, and the Petrella v. MGM decision by the Supreme Court of the
7 United States, that Plaintiff could sue for this claim. *See* Decl. of Michael Skidmore.

8 This lawsuit was brought by the Trust in good faith to preserve and promote the
9 memory of Randy Wolfe, aka Randy California. It has long been suspected by the
10 musical community that Led Zeppelin copied Taurus to create Stairway to Heaven—the
11 same way Jimmy Page and Robert Plant admitted copying many other artists they
12 appreciated. Plaintiff’s only goal in filing this lawsuit was to make sure that Randy
13 California got the credit he deserved, and if the lawsuit had been successful Mr.
14 Skidmore would have received nothing as the Trust is a charity. Mr. Skidmore has
15 submitted a declaration in this matter, explaining his motivations and his dedication to
16 preserving Randy Wolfe’s memory. *See generally* Declaration of Michael Skidmore.

17 C. CONSIDERATIONS OF COMPETENCE AND DETERRENCE

18 Where neither party has an improper motive, both parties have important economic
19 interests, and the litigation has some importance for copyright law, “there is no need for
20 deterrence.” *Perfect 10, Inc.*, 2005 WL 2007932 at *5 (citing *Lotus Dev. Corp.*, 140 F.3d
21 at 74). Here, novel legal issues dominated the substantial similarity comparison.
22 Plaintiff’s position was objectively reasonable and not frivolous, as he relied on a Court
23 in this district that reach a differing conclusion concerning the scope of the deposit copy.
24 There is therefore nothing that needs to be “deterred” through an award of fees. *Id.*; *see*
25 *also, Inhale, Inc.*, 75 F.3d at 1042-43 (affirming fee award in order to deter “similarly
26 frivolous claims against innocent Defendants”); *Bernal*, 2010 WL 6397561 at *2
27 (awarding fees where lawsuit was objectively unreasonable in order to “promote
28 deterrence of meritless claims that tend to chill creative expression”). What was litigated

1 in this case was a dispute concerning the boundaries of copyright law between the 1909
2 Act and the 1976 Act and the scope of what deposit transcriptions under the 1909 Act
3 protect. Courts in this district have differed on the correct legal interpretation of these
4 issues, and imposing attorney's costs and fees in light of the uncertainty of this area of
5 law could not serve the purposes of deterrence or competence.

6 When the parties do not have even resources the Ninth Circuit considers "whether
7 an award of attorney's fees would have a chilling effect that is too great or would impose
8 an inequitable burden on an impecunious plaintiff." *See Williams v. Bridgeport Music*,
9 13-cv-6004 (April 12, 2016) (ECF No. 554) (citing *Ets-Hokin v. Skyy Spirits, Inc.*, 323
10 F.3d 763, 766 (9th Cir. 2003)). Plaintiff notes that in comparison to Defendants, giants in
11 the music industry, the Trust is miniscule. The Trust is a charity. The Trust does not have
12 significant financial resources at its disposal, and what resources it does have are devoted
13 to purchasing instruments for school kids. Imposing costs and fees would have both a
14 chilling effect that is far too great, and would also be inequitable in light of the Trust's
15 purpose and the Trust's limited funds. There is no possible way the Trust could pay a
16 judgment of \$700,000 in attorney's costs and fees. *See Declaration of Michael Skidmore.*

17 D. DEFENDANTS' CONDUCT DOES NOT WARRANT GRANTING FEES

18 Although Defendants erroneously focus their motion, not on the *Fogerty* factors
19 prescribed by the Ninth Circuit, but instead on erroneously attacking Plaintiff's counsel
20 (rebutted *infra*), the truth is that it is Defendant and defense counsel's conduct do not
21 warrant granting fees—even setting aside that Defendants drove up the cost of this
22 litigation by making many frivolous legal arguments on ownership and access.

23 For instance, defense counsel engaged in extraordinarily underhanded behavior
24 during pre-trial activities. Specifically, after discovery closed, but before summary
25 judgment, Defendants apparently worked with Hollenbeck Music, Plaintiff's publisher, to
26 file a copyright correction form with the copyright office to list Taurus as a work for hire.
27 *See ECF NO. 129-3*, at p.7-10. As the Taurus copyright was under litigation, this
28 secretive and fraudulent attempt to change the Taurus copyright's ownership was a

1 breathtaking attempt to improperly undermine Plaintiff's lawsuit. To be clear, the
2 registration was completely false as there is no evidence that Taurus, written in 1966,
3 could have possibly been covered by the work for hire agreement signed in August 1967
4 with Hollenbeck Music. Defendants' knew this, but presented the false registration
5 document to the Court anyway in their summary judgment package. *Id.* Filing a false
6 registration is illegal under the Copyright Act. *See* 17 U.S.C. § 506(e).

7 Moreover, it was also revealed on May 27, 2016, that defense counsel knew of a
8 serious conflict of interest that their musicological expert, Dr. Lawrence Ferrara, had as a
9 result of previously analyzing Taurus for Plaintiff's publisher. *See generally* ECF No.
10 230 (Motion for Sanctions). Defense counsel actively hid this conflict from Plaintiff and,
11 when it was finally discovered at the 11th hour in Dr. Ferrara's deposition, defense
12 counsel nonsensically claimed that Peter Anderson himself had waived the conflict. *Id.* at
13 p.8. But any waiver of a conflict could only come from Plaintiff! During the deposition of
14 Dr. Ferrara, defense counsel Peter Anderson also took Dr. Ferrara out in the hallway and
15 deliberately coached the witness, something that Dr. Ferrara admitted. *Id.* at p.11-12.
16 Plaintiff refers the Court to the motion for sanctions filed against defense counsel for this
17 conduct, all of which was unethical and severely and unduly prejudiced Plaintiff's
18 prosecution of this lawsuit. See ECF No. 230.⁵

19 E. DEFENDANTS' BASELESS ACCUSATIONS OF MISCONDUCT ARE
20 DESIGNED TO HIDE THAT DEFENDANTS DO NOT HAVE A
21 STRONG CASE FOR FEES UNDER THE *FOGERTY* FACTORS

22 Defendants' allegations of misconduct are meritless and insidiously attempt to
23 misconstrue good faith advocacy as "misconduct." It appears that Defendants have kept
24 track of every dispute they had with Plaintiff in this litigation and laundry listed them
25 here. Defendants' list of petty, subjective complaints has nothing to do with the *Fogerty*
26 factors and cannot support the imposition of costs and fees. Awarding fees based on these
27 completely baseless allegations (most of which Defendants do not even explain how they

28 ⁵ The Court struck the motion stating that it was filed after the motion deadline. However, Plaintiff notes that the issue arose on May 27, 2016 and could not have been filed by the February 25, 2016 motion deadline.

could possibly constitute misconduct), would chill advocacy to a standstill, and leave counsel for either plaintiffs or defendants second-guessing every step in the litigation. Defendants never filed a motion for sanctions during this case and are only raising these issues now as an improper and underhanded attempt to support a weak motion for costs and fees. At the onset of this case the Court made it clear that it would not entertain misconduct from either side at trial. There was no misconduct at trial.

Plaintiff Did Not Attempt to Wipe Stairway to Heaven “Off the Map”—Plaintiff Only Wanted a One Third Credit for the Introduction

For instance, Defendants hyperbolically claim that Plaintiff “attempted to wipe Stairway to Heaven off the map” by including standard Copyright Act language regarding injunctive relief in the Complaint. Def. Memorandum of Law at p.4. But at no point did Plaintiff move for a preliminary injunction or indicate that such a right would be invoked. As Defendants well know asserting the right to relief in a complaint does not mean that a party would exercise those rights. Nothing about including a request for relief in a complaint explicitly authorized by the Copyright Act is improper or warrants fees.

Plaintiff Never Tried to Introduce Evidence of Prior Settlements

Defendants also claim that it was misconduct for Plaintiff to attempt to introduce “instances of prior settlements or potential-but-never asserted copyright infringement claims.” Def Memo. at p.6. Defendants claim “any reasonable lawyer would have known that prior claims and settlements are irrelevant.” *Id.* **Defendants’ accusation is false and misrepresents Plaintiff’s position.** Plaintiff *never* attempted to introduce evidence of prior lawsuits and settlements. Plaintiff instead wanted to show the jury that Led Zeppelin had repeatedly changed the credits on its songs to credit new artists previously omitted. *See* ECF No. 165 (“Defendants desperately attempt to frame this motion as a request to exclude settlement agreements . . . This could not be further from the truth. FN1 [The fact that the credits on the songs changed does not require any evidence of a settlement agreement]. What Plaintiff seeks to disclose is the songwriting method used by Led Zeppelin [] that resulted in numerous occasions of Led Zeppelin having to change the

credit for its songs.”). Defendants Page and Plant admitted using other artists’ work without credit to create Led Zeppelin’s music. Page, for instance, stated in an interview:

“[A]s far as my end of it goes, I always tried to bring something fresh to anything that I used. I always made sure to come up with some variation. In fact, I think in most cases, you would never know what the original source could be.”

See Exhibit 2 – December 1993 *Guitar World*, at p.50. If defense counsel is going to lob an allegation of misconduct, it should not completely botch Plaintiff’s actual position. This evidence was also admissible under Fed. RE 404(b), as Plaintiff argued in his motion in limine response. *See* ECF No. 165 at p.4. Plaintiff observes that making arguments Defendants disagree with is not misconduct and does not warrant fees.

Plaintiff Did Not File Frivolous Motions

Defendants also laundry list several motions they contend constitute misconduct because they were allegedly frivolous. Def. Memo. at p.6-7. These vague assertions are never developed, only listed. Plaintiff examines each of them in turn:

- Plaintiff’s February 2, 2016 Application to Amend Scheduling Order, denied (Doc. No. 95)
 - This was a routine application to extend the discovery deadline, denied at the discretion of the Court. Defendants never explain how the filing of this application could possibly constitute misconduct.
- Plaintiff’s February 25, 2106 Motion to File Amended Complaint to add defendants, denied (Doc. No. 133)
 - Plaintiff only learned of the new potential defendants in 2016 after Defendants produced voluminous damages discovery, totaling over 45,000 pages. This motion was necessitated because Defendants used shell companies to hide their assets. This motion was timely, well supported, and objectively reasonable. Defendants do not explain how filing this motion was unreasonable, much less could possibly constitute misconduct.

- 1 • Plaintiff's March 26, 2016 Motion to withdraw deemed admissions, stricken (Doc.
2 No. 153)
 - 3 ○ Defendants fail to note that although the Court struck this motion as untimely,
4 Plaintiff prevailed on this issue and Defendants' assertion that Plaintiff had
5 admitted Taurus was a work for hire was rejected.
- 6 • Plaintiff's May 17, 2016 Motion to Compel the Individual Defendants to Appear for
7 Trial, denied.
 - 8 ○ Defendants refused to represent whether they would appear for trial. This was a
9 basic lack of common courtesy on the part of defense counsel, as Mr. Malofiy
10 had to spend an enormous amount of time editing video to put together
11 designations for Mr. Page, Plant, and Jones in the event they did not appear. As
12 Plaintiff was restricted to 10 hours to present the entire case, this also made
13 scheduling witnesses infinitely harder, many of whom lived hours away. This
14 motion was premised upon the well-recognized ability of the court to control the
15 witnesses in front of it, that Defendants had consented to jurisdiction in
16 California, and also the fact that defendant Plant and Jones had extensive contact
17 with Los Angeles that allowed them to be compelled under FRCP 45. Defendants
18 do not explain how filing this motion constitutes "misconduct" or was
19 unreasonable in light of their basic lack of courtesy to opposing counsel.
- 20 • Plaintiff's June 11, 2016 Motion for Sanctions and Exclusion of Defendants'
21 Musicologist, stricken.
 - 22 ○ This motion was stricken as untimely. Respectfully, it should not have been. The
23 misconduct alleged therein, that Defendants hid a conflict of interest for over two
24 years from Plaintiff, was only discovered on May 27, 2016 and could not have
25 been discovered earlier. Plaintiff filed this motion within two weeks of discovery
26 of the misconduct. This motion was extensively detailed and revealed blatantly
27 unethical conduct by defense counsel. Again, Defendants do not explain how it is
28

Plaintiff's counsel who could possibly be accused of misconduct for filing a well-supported sanctions motion.

- Plaintiff's June 12, 2016 Motion for Reconsideration of Court's April 4, 2016 order granting partial summary judgment.
 - The filing of a motion for reconsideration, without some extraordinary showing, cannot be characterized as misconduct. Defendants make no such showing, just the accusation. In fact, that motion was well-supported.

Defendants also ignore that they too had filings stricken. *See* ECF No. 212. As can be seen, Defendants undeveloped and unsupported accusations attempt to misconstrue good faith advocacy as misconduct. This is insidious and should be rejected.

Plaintiff's Arguments In Favor of Admitting Taurus Sound Recording Were Objectively Reasonable

Defendants claim that Plaintiff's arguments that the sound recording of Taurus should be admissible were "misconduct." Def. Memo. at p.7-8. Plaintiff strenuously objects, again, to Defendants misconstruing good faith advocacy as something nefarious. Defendants' motion incorrectly asserts that Plaintiff sued over the infringement of the sound recording copyright of Taurus. *See* Def. Memo. at p.7 ("Congress did not extend federal copyright protection to sound recordings . . . until 1971."). But Plaintiff never asserted a sound recording claim, nor did he claim that Defendants sampled Taurus. Again, Defendants' motion alleges that Plaintiff made a frivolous argument, but misconstrues Plaintiff's actual position.

The motion goes on to note that Plaintiff served expert reports comparing the composition of the sound recording of Taurus to the sound recording of Stairway to Heaven. Def. Memo. at p.8. Defendants absurdly claim this was misconduct. Defendants fail to note that other courts in this district, *see Williams v. Bridgeport Music, supra*, have held that the compositional elements in the sound recording of a source song are admissible for the substantial similarity comparison. Different Courts have come to different opinions on this novel issue. This is good faith advocacy and cannot remotely be

1 construed as “misconduct.” That the Court sometimes disagreed with some of Plaintiff’s
2 positions (as it did Defendants) does not support Defendants’ hyperbolic accusations.

3 **Defendants’ Miscellaneous Complaints**

4 Having thoroughly misrepresented Plaintiff’s legal and factual positions, and falsely
5 portrayed good faith advocacy as misconduct, Defendants go on to complain that
6 Plaintiff’s counsel spoke to the media about a case for which there was a huge amount of
7 press coverage. Defendants raised this argument before and during trial. The Court never
8 acted on Defendants’ objections, despite being well aware of them. When talking to the
9 media, Plaintiff’s counsel reiterated positions that had already been in the public record
10 or were argued before the Court. Plaintiff notes that there is no prohibition on speaking to
11 the media, the Courts are public, misinformation needed to be corrected (the Wolfe
12 family had no stake in the suit), and the jury was instructed to not look at any media.

13 Defendants also claim that Plaintiff elicited testimony on the Trust’s purpose and
14 goal as a charity from Janet Wolfe. Def. Memo. at p.10. But Janet Wolfe answered the
15 pertinent question the way she did of her own volition; it was not a leading question.

16 Defendants claim that Plaintiff’s counsel misrepresented Exhibit 100164, an
17 interview of Page, Plant, and Jones speaking about the creation of Stairway to Heaven, as
18 being recorded in 1972, instead of 1990, as they assert. Defendants never explain how
19 this dispute over the date mattered in the case or how it could have possibly been
20 motivated by bad faith. To the extent that this issue actually mattered, Defendants could
21 have put on evidence by their very own witnesses. They chose not to because it is a
22 nonissue. Plaintiffs’ counsel noted in closing that whether the date is 1972 or 1990, it
23 does not change the veracity of Defendants’ statements. Trial Transcript, at p.1229.

24 Defendants further claim that Plaintiff’s counsel “altered” a photograph of Mark
25 Andes and Robert Plant speaking in a group in the early 1980s. Plant denies knowing
26 Andes, which Plaintiff argues was a falsehood. As with nearly every one of Defendants’
27 laundry list of unsupported allegations of misconduct, this was already raised before the
28 Court repeatedly and ruled upon. Plaintiff objects to the use of the word “alter,” as it is

highly deceptive and loaded. Despite Defendants’ over-the-top accusation, the truth is much more mundane. While the photo was being pulled as a screenshot off the Getty Images website by Plaintiff’s counsel, the website’s software partially cropped the photo. The photo was not “altered” in any way. *See* Declaration of AJ Fluehr. Defendants’ accusation of misconduct is refuted by the fact that Plaintiff’s counsel had previously sent the full picture to Defendants, demonstrating that there was no attempt to put one over on Defendants. Indeed, they saw the discrepancy and objected. Furthermore, the correct remedy would have been to show the full, uncropped picture to the jury—which merely supported Andes testimony that he and Plant had a conversation at that time. Defendants, however, never wanted this damaging piece of evidence shown the jury and seized on this inadvertent cropping as a convenient way to argue it should be excluded.

IV. APPORTIONMENT AND CUTTING REQUESTED COSTS AND FEES

The fact is that the Trust is very small when compared to Defendants, financially speaking, and that Defendants focused a large part of their advocacy in this case on disputing ownership and access issues, when they knew their arguments were unsupportable, warrants the Court cutting the costs and fees—provided the Court decides costs and fees should be imposed. *Ryan v. Editions Ltd. West, Inc.*, 786 F. 3d 754, 763 (9th Cir. 2015) (stating that Court may reduce fees for excessive and unreasonable hours); *Schwarz v. Secretary of Health & Human*, 73 F. 3d 895 (9th Cir. 1995) (stating court authorized to make “across-the-board percentage cuts” of final lodestar figure).

V. CONCLUSION

Plaintiff asks that this motion be denied as the lawsuit was objectively reasonable, hard fought, and was filed with the best of motivations. The purpose of the Copyright Act would not be served in imposing costs and fees, especially given the enormous discrepancy between Defendants, who are titans in the music industry, and the Trust which is a small charity.

Dated: July 18, 2016

FRANCIS ALEXANDER, LLC

/s/ Francis Alexander Malofiy
Francis Alexander Malofiy, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Plaintiff hereby represents that PLAINTIFF'S RESPONSE TO MOTION FOR ATTORNEY'S COSTS AND FEES has been served upon counsel by electronic filing:

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Attorney for Defendants Super Hype Publishing, Inc., Warner Music Group Corp., Warner/Chappell Music, Inc., Atlantic Recording Corporation, and Rhino Entertainment Company

Respectfully submitted,
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/d/ July 18, 2016

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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SKIDMORE, as Trustee for
the RANDY CRAIG WOLFE TRUST,

Plaintiff,

v.

LED ZEPPELIN; JAMES PATRICK
PAGE; ROBERT ANTHONY PLANT;
JOHN PAUL JONES; SUPER HYPE
PUBLISHING, INC.; WARNER MUSIC
GROUP CORP., Parent of
WARNER/CHAPPELL MUSIC, INC.;
ATLANTIC RECORDING
CORPORATION; RHINO
ENTERTAINMENT COMPANY,

Defendants.

Case No. 15-cv-03462 RGK (AGRx)

Hon. R. Gary Klausner

**DECLARATION OF FRANCIS
MALOFIY IN OPPOSITION TO
DEFENDANTS' MOTIONS FOR
COSTS AND FEES**

Filed concurrently with Motion
Response; and [Proposed] Order

Trial Date: August 8, 2016
Time: 1 p.m.
Courtroom: 850

1 I, Francis Malofiy, declare:

2 1. I am an attorney in the law firm of Francis Alexander, LLC, and I
3 represent Plaintiff Michael Skidmore, as Trustee for the Randy Craig Wolfe Trust in
4 the above-captioned matter. I have personal knowledge of the facts recited below,
5 and, if called as a witness, I could and would testify competently to the facts
6 contained in this declaration.

7 2. I took this case on contingency, and have expended a great deal of time,
8 effort, and money bringing it to trial, because I believe that it is a meritorious claim.
9 I would not have done so if I believed that the chances of success were not in
10 Plaintiff's favor. I am a musician myself and understand the musical issues involved.

11 3. This case has always been about giving credit where credit is due.
12 During settlement negotiations for this case I always told Defendants that Plaintiff
13 would settle for \$1.00 and credit. Defendants never accepted this demand. All other,
14 subsequent, settlement demands were based on the incredible earning power
15 Stairway to Heaven has as one of the most popular songs on the planet. Defendants'
16 accusation that I attempted to "coerce" a "massive settlement" is completely false in
17 all respects.

18 4. A true and correct copy of Exhibit 1 – 1969 Richmond News Leader
19 Jimmy Page Interview (Trial Exhibit 100158), is attached to this declaration.

20 5. A true and correct copy of Exhibit 2 – Dec. 1993 Guitar World
21 Interview with Jimmy Page, is attached to the declaration.

22 6. A true and correct copy of Exhibit 3 – Trial Transcript Excerpts, is
23 attached to this declaration

24 7. A true and correct copy of Exhibit 4 – Jury Verdict Form, is attached to
25 this declaration.

26 I declare under penalty of perjury under the laws of the United States of
27 America that the foregoing is true and correct.

28 Executed this 18th day of July 18, 2016 at Media, PA.

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/s/ Francis Malofiy
Francis Malofiy

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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SKIDMORE, as Trustee for
the RANDY CRAIG WOLFE TRUST,

Plaintiff,

v.

LED ZEPPELIN; JAMES PATRICK
PAGE; ROBERT ANTHONY PLANT;
JOHN PAUL JONES; SUPER HYPE
PUBLISHING, INC.; WARNER MUSIC
GROUP CORP., Parent of
WARNER/CHAPPELL MUSIC, INC.;
ATLANTIC RECORDING
CORPORATION; RHINO
ENTERTAINMENT COMPANY,

Defendants.

Case No. 15-cv-03462 RGK (AGRx)

Hon. R. Gary Klausner

**DECLARATION OF MICHAEL
SKIDMORE OPPOSING
DEFENDANTS REQUEST FOR
COSTS AND FEES**

1 I, Michael Skidmore, declare:

2 1. I have personal knowledge of the facts recited below, and, if called as a
3 witness, I could and would testify competently to the facts contained in this
4 declaration.

5 2. Firstly, I understand why the judge did what he did with regards to not
6 allowing the jury to know who the beneficiaries were because he felt that knowing
7 the money went to charitable purposes would be prejudicial, but now I believe these
8 facts are 100% pertinent because without them everything is skewed in an incorrect
9 and biased fashion that favors multi-national corporations. The Trust is a charity and
10 all income provides instruments to children in public schools who cannot afford
11 them.

12 3. I have spent the best part of two decades helping promote the music and
13 legacy of my friend Randy California's music. He died in a tragic accident saving
14 his son. This has been a labor of love, but I have done it because I believe in his
15 talent, and also for his family, friends and the fans. There are some things that you
16 believe in and some that are just simply right.

17 4. As Trustee for his estate I have taken my fiduciary responsibilities
18 extremely seriously. I have ensured that the funds garnered from song writing
19 royalties and albums that I have produced and released (often at a personal cost to
20 myself) have gone to the intended beneficiaries, that is children in the public school
21 systems to provide instruments and tuition for children that could not afford them. I
22 do not profit from this endeavor. Each year the net income has to be distributed to
23 the beneficiaries. My reward is knowing the funds go to a good cause.

24 5. I carefully reviewed this lawsuit at all stages, including after the judge
25 denied summary judgment to Defendants. At no point did I find it to be frivolous,
26 and I firmly believe that that the lawsuit was reasonable, and still do.

27 6. I found the personal vilification of myself and the Trust by defendants
28 counsel to be extremely unprofessional, unwarranted and intimidating.

1 7. For over two years they have intimidated me and tried to conjure the
2 illusion that I am a vile person with unclean hands that benefited at the expense of
3 someone else (especially during my deposition); even though I have adhered strictly
4 to my responsibilities as trustee of the Randy Craig Wolfe Trust carrying out the
5 wishes of his late mother (the original trustee) and have ample proof of these facts.
6 Despite the fact that defendants' lawyers spent a huge amount of time trying to show
7 that I was not the correct Trustee (a fact not disputed in years) and that the Trust
8 didn't own the copyright to "Taurus," they were unsuccessful at trial.

9 8. What I have done is with heartfelt passion and a feeling that I knew I
10 was doing the right thing. Once I understood in 2014 that there was a chance that
11 Randy California could possibly get the credit he was due thanks to a Supreme
12 Court ruling (*Petrella v. MGM*) I went forward. For decades before his death, Randy
13 California consulted with attorneys to assert his right in Taurus but was told that he
14 could not do so because of the statute of limitations.

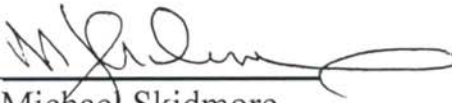
15 9. I work two jobs, one as a compliance manager and the other as a
16 Customs Consultant. I lost a huge amount of work bringing and supporting this case,
17 but I did it because I believed it was right.

18 10. I had no motivation in filing this suit but did so to abide by my
19 fiduciary obligations and to preserve the memory of Randy Craig Wolfe.

20 11. The Trust has no way to pay for requested costs and fees, which far
21 exceed the Trust's income and assets. As stated earlier, I am obligated on an annual
22 basis to distribute all income to the benefit of children in public schools that cannot
23 afford musical instruments, in the name of Randy California, so the trust has no
24 independent income. What comes in goes out.

25 I declare under penalty of perjury under the laws of the United States of
26 America that the foregoing is true and correct.

27 Executed this 18th day of July, 2016 at Quincy, Massachusetts.
28

1
2 /s/ 
3 Michael Skidmore
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Tab 8

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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SKIDMORE, as Trustee for
the RANDY CRAIG WOLFE TRUST,

Plaintiff,

v.

LED ZEPPELIN; JAMES PATRICK
PAGE; ROBERT ANTHONY PLANT;
JOHN PAUL JONES; SUPER HYPE
PUBLISHING, INC.; WARNER MUSIC
GROUP CORP., Parent of
WARNER/CHAPPELL MUSIC, INC.;
ATLANTIC RECORDING
CORPORATION; RHINO
ENTERTAINMENT COMPANY,

Defendants.

Case No. 15-cv-03462 RGK (AGRx)

Hon. R. Gary Klausner

**DECLARATION OF AJ FLUEHR IN
OPPOSITION TO DEFENDANTS'
MOTIONS FOR COSTS AND FEES**

Filed concurrently with Motion
Response; and [Proposed] Order

Trial Date: August 8, 2016

Time: 1 p.m.

Courtroom: 850

Executed this 19th day of July, 2016 at Media, PA.

/s/ AJ Fluehr
AJ Fluehr

Exhibit 1

Case 2:15-cv-03462-RGK-AGR Document 301 Filed 07/19/16 Page 5 of 9 Page ID #:9044



British musician [Robert Plant](#) visits members of the rock group [Heart](#) after their performance in Milton Keynes, England, circa 1980s. (L-R) [Ann Wilson](#), [Roseanne Barr](#), and [Howard Leese](#) talk on the... [More](#)

January 01, 1980 | [License](#)

Keywords: [Concert](#) [People](#) [Performance](#) [Full Length](#) [Outdoors](#)

535-0001

Exhibit 2

View Notification

View Notification

View Notification

View Notification

View Notification

1304NIN7G.pdf

09yp8K97.pdf

Bestseller...

Case 2:15-cv-03462-RGK-AGP Document 301 Filed 07/19/16 Page 7 of 9 Page ID #:9046

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Bestsellers From Hulton Archive 1980s

10 PHOTOS

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British musician [Robert Plant](#) visits members of the rock group [Heart](#) after their performance in Milton Keynes, England, circa 1980s. (L-R) [Ann Wilson](#), [Robert Plant](#), [Denny Carmassi](#) and [Howard Leese](#) talk on the... [More](#)

January 01, 1980 [License](#)

Keywords: [Robert Plant](#) [Nancy Wilson - Rock Musician](#) [Ann Wilson - Musician](#) [Rock Music](#) [The Andes](#)

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Exhibit 3



Tab 9

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ATLANTIC RECORDING CORP., RHINO
ENTERTAINMENT COMPANY and WARNER
MUSIC GROUP CORP.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	
vs.)	DEFENDANT WARNER/
)	CHAPPELL MUSIC, INC.'S NOTICE
LED ZEPPELIN, <i>et al.</i> ,)	OF MOTION AND MOTION FOR
)	AWARD OF ATTORNEYS' FEES
)	
Defendants.)	Date: August 8, 2016
)	Time: 9:00 a.m.

Courtroom of the Honorable
R. Gary Klausner
United States District Judge

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 8, 2016, at 9:00 a.m. or as soon thereafter as the matter may be heard in Courtroom 850 of the above-entitled District Court, located at 255 East Temple Street, Los Angeles, California, defendant Warner/Chappell Music, Inc. (“Warner/Chappell”) will move the above-entitled Court, the Honorable R. Gary Klausner, United States District Judge presiding, for an award of attorneys’ fees Warner/Chappell incurred in defendants’ successful defense of this action.

Warner/Chappell’s Motion for attorneys’ fees is brought on the grounds that, as stated more fully in the accompanying Memorandum of Points and Authorities:

1. Defendants prevailed in this action and on plaintiff’s claims for copyright infringement and right of attribution;

2. The award of attorneys’ fees is appropriate under 17 U.S.C. Section 505, including because defendants’ successful defense of plaintiff’s copyright claims fulfilled and promoted the purposes and policies of the Copyright Act, *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 527 (1994);

3. Plaintiff’s claims for copyright infringement and right of attribution all arose from the same core facts or related legal theories and, as a result, the attorneys’ fees in defending the entire action are recoverable; and

4. The \$613,471 in attorneys’ fees incurred by Warner/Chappell from the inception of this action in 2014 in the Eastern District of Pennsylvania through discovery, pretrial and trial in this District, are reasonable

This Motion is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities, Declarations and Exhibits filed with this Notice of Motion and Motion, the pleadings, and papers on file in this action, the

1 matters of which this Court may take judicial notice, and such additional matters and
2 oral argument as may be offered in support of the Motions.

3 This Motion is made following the conference with plaintiff's counsel
4 pursuant to Local Rule 7-3, which took place on June 30, 2016.

5
6 Dated: July 7, 2016

7 /s/ Peter J. Anderson
8 Peter J. Anderson, Esq.
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10 A Professional Corporation
11 Attorney for Defendants
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13 ANTHONY PLANT, JOHN PAUL JONES,
14 WARNER/CHAPPELL MUSIC, INC.,
15 SUPER HYPE PUBLISHING, INC.,
16 ATLANTIC RECORDING CORP., RHINO
17 ENTERTAINMENT COMPANY and
18 WARNER MUSIC GROUP CORP.
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 7 ATLANTIC RECORDING CORP., RHINO
 ENTERTAINMENT COMPANY and WARNER
 8 MUSIC GROUP CORP.

9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**
 11 **WESTERN DIVISION**

12	MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
13	Plaintiff,)	
14	vs.)	DEFENDANT WARNER/
15	LED ZEPPELIN, <i>et al.</i> ,)	CHAPPELL MUSIC, INC.'S
16	Defendants.)	MEMORANDUM OF POINTS AND
17)	AUTHORITIES IN SUPPORT OF
)	MOTION FOR AWARD OF
)	ATTORNEYS' FEES
)	
)	Date: August 8, 2016
)	Time: 9:00 a.m.

18
 19 Courtroom of the Honorable
 R. Gary Klausner
 20 United States District Judge
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MEMORANDUM OF POINTS AND AUTHORITIES

1. SUMMARY OF ARGUMENT

Defendant Warner/Chappell Music, Inc. (“Warner/Chappell”) respectfully submits this Memorandum in support of its Motion for the \$613,471 in attorneys’ fees it incurred in the successful defense of plaintiff’s copyright infringement claims and “right of attribution” claim, on behalf of all defendants.

Plaintiff filed this action on May 31, 2014 in the District Court for the Eastern District of Pennsylvania, asserting nearly half-century-old claims that neither Randy Wolfe nor the owner of the allegedly-infringed copyright ever bothered to assert because any similarity between *Taurus* and *Stairway to Heaven* results from the use of a centuries-old, public domain descending chromatic line. Defendants prevailed at trial, and the award of the attorneys’ fees Warner/Chappell incurred is appropriate.

Attorneys’ fees are properly awarded in order to encourage and reward the litigation of a meritorious defense, in this case ensuring the continued availability of *Stairway to Heaven* – which plaintiff asked the Court to order enjoined and to have all recordings and sheet music destroyed – and defendants thereby furthered the Copyright Act’s ultimate purpose. *See, below* at 2-5. In addition, attorneys’ fees are properly awarded because of plaintiff’s litigation misconduct at every step of this case, from its inception through and including jury deliberations. *See, below* at 5-12. Also, attorneys’ fees are properly awarded because, *e.g.*, defendants achieved complete success in defending plaintiff’s objectively unreasonable positions. *See, below* at 12-16. And, no apportionment of attorneys’ fees between plaintiff’s copyright and “right of attribution” claims is required because the claims arise from a common core of facts and legal theory. *See, below* at 16-17. Finally, the amount of fees sought is reasonable. Indeed, although the individual defendants also incurred substantial attorneys’ fees for representation by their New York counsel, the individuals do not seek the award of those fees. *See, below* at 17-20.

Warner/Chappell respectfully submits that its Motion should be granted.

2. **WARNER/CHAPPELL SHOULD BE AWARDED ATTORNEYS' FEES**

(a) **The Court's Broad Discretion to Award Attorneys' Fees in Order to Further the Copyright Act's Goal of Encouraging a Defendant's Litigation of a Meritorious Defense**

The Supreme Court recently confirmed and clarified the standards applicable to a request for attorneys' fees under the Copyright Act. *Kirtsaeng v. John Wiley & Sons, Inc.*, 136 S. Ct. 1799 (2016).

The Copyright Act provides that "the court may . . . award a reasonable attorney's fee to the prevailing party" 17 U.S.C. § 505. The Court has "broad leeway . . ." in awarding attorneys' fees (*Kirtsaeng*, 136 S. Ct. at 1885) and "fee awards under § 505 should encourage the types of lawsuits that promote" the Copyright Act's "well settled" objective of "ultimately serv[ing] the purpose of enriching the general public through access to creative works." *Kirtsaeng*, 136 S. Ct. at 1886, *quoting Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 527 (1994).

In exercising its discretion, "a district court may not 'award[] attorney's fees as a matter of course'; rather, a court must make a more particularized, case-by-case assessment." *Id.*, *quoting Fogerty*, 510 U.S. at 533; *Kirtsaeng*, 136 S. Ct. at 1885 ("§ 505 grants courts wide latitude to award attorney's fees based on the totality of circumstances in a case"). Also, "a court may not treat prevailing plaintiffs and prevailing defendants any differently; defendants should be 'encouraged to litigate [meritorious copyright defenses] to the same extent that plaintiffs are encouraged to litigate meritorious claims of infringement.'" *Id.*, *quoting Fogerty*, 510 U.S. at 527.

Further, whether the losing party had an objectively reasonable position may be a factor, but it is "not the controlling one." *Kirtsaeng*, 136 S. Ct. at 1888, & at 1889 (Second Circuit "Court of Appeals' language at times suggests that a finding of reasonableness raises a presumption against granting fees, . . . and that goes too far in cabining how a district court must structure its analysis . . ."). Instead, "§ 505 confers broad discretion on district courts and, in deciding whether to fee-shift, they

1 must take into account a range of considerations beyond the reasonableness of
2 litigating positions For example, a court may order fee-shifting because of a
3 party's litigation misconduct, whatever the reasonableness of his claims or
4 defenses." *Id.* at 1988-89. The Court may also consider "frivolousness, motivation,
5 objective unreasonableness[,] and the need in particular circumstances to advance
6 considerations of compensation and deterrence." *Id.* at 1985, *quoting Fogerty*, 510
7 U.S. at 534, n. 19. Ultimately, however, "courts must view all the circumstances of
8 a case on their own terms, in light of the Copyright Act's essential goals."
9 *Kirtsaeng*, 136 S. Ct. at 1989.

10 Applying these principles, Warner/Chappell should be awarded fees.

11 (b) **Warner/Chappell Is Properly Awarded Attorneys' Fees Incurred in**
12 **Successfully Defending Plaintiff's Copyright Infringement Claims**

13 (1) **Defendants' Successful Defense of Plaintiff's Infringement**
14 **Claims Furthered the Policies of the Copyright Act**

15 By successfully defending against plaintiff's claims for direct, contributory
16 and vicarious copyright infringement, defendants fulfilled the "pivotal criterion" of
17 furthering the Copyright Act's purpose. *Fantasy, Inc. v. Fogerty*, 94 F.3d 553, 558
18 (9th Cir. 1996); *Magnuson v. Video Yesteryear*, 85 F.3d 1424, 1432 (9th Cir. 1996)
19 ("This court has emphasized that in considering motions for attorney's fees under §
20 505 of the Copyright Act, the district court should 'seek to promote the Copyright
21 Act's objectives'"), *quoting Historical Research v. Cabral*, 80 F.3d 377, 378-79 (9th
22 Cir. 1996). "[C]opyright law ultimately serves the purpose of enriching the general
23 public through access to creative works," *Fogerty*, 510 U.S. at 527.
24 Oftentimes, the defendant has his own copyrighted work and he furthers the policy
25 of encouraging the public's access to creative works by protecting his work from the
26 plaintiff's challenge of infringement. *Id.* at 526. That was the case here.

27 The musical composition *Stairway to Heaven* is a work protected by
28 copyright. 17 U.S.C. § 102(a)(2) ("Works of authorship include . . . musical

works”). Plaintiff stated that *Stairway to Heaven* “is universally acknowledged as one of the greatest songs ever written.” Pltf’s First Am. Complaint (“FAC”) (Doc. 31) at 11, ¶ 56. Yet, plaintiff not only tried to tar *Stairway to Heaven* and its authors, Jimmy Page and Robert Plant, but by claiming infringement he also challenged *Stairway to Heaven*’s copyright. 17 U.S.C. § 103(a) (copyright “does not extend to any part of the work in which [preexisting] material has been used unlawfully”). Further, plaintiff expressly sought to deprive the public of the *Stairway to Heaven* musical composition and recordings and sheet music of that composition, praying in both his complaints for “[i]njunctive and other equitable relief inclusive of but not limited to impoundment, destruction, and halting of sales of” *Stairway to Heaven* recordings and sheet music. Complaint (Doc. 1) at 28, ¶ (f); FAC at 31, ¶ (f). Defendants successfully defended plaintiff’s attempt to wipe *Stairway to Heaven* off the map and, in doing so, defendants furthered the important copyright “purpose of enriching the general public through access to creative works,” *Fogerty*, 510 U.S. at 527.

Also, to ensure a proper balance of competing interests, copyright rights are carefully “limited” by the Copyright Act. *Id.* at 526-27. As a result, “it is peculiarly important that the boundaries of copyright law be demarcated as clearly as possible” and the “successful defense of a copyright infringement action may further the policies of the Copyright Act every bit as much as a successful prosecution of an infringement claim” *Id.* at 527. Here, defendants successfully established that the claimed similarities are limited to public domain elements such as a descending chromatic line and the random pitches plaintiff’s experts plucked from the *Taurus* and *Stairway to Heaven* compositions. Defendants’ successful defense served the “peculiarly important” copyright policy of demarcating “the boundaries of copyright law,” by establishing that use of these commonplace musical elements does not support an infringement claim. Awarding defendants their attorneys’ fees is important because “defendants who seek to advance a variety of meritorious

copyright defenses should be encouraged to litigate them” *Id.*; *see, also Maljack Prods., Inc. v. GoodTimes Home Video Corp.*, 81 F.3d 881, 889 (9th Cir. 1996) (affirming award of attorneys’ fees to prevailing defendant).

This is a text-book example of the “successful defense of a copyright infringement action . . . furthering the policies of the Copyright Act every bit as much as a successful prosecution of an infringement claim by the holder of a copyright.” *Id.* For that reason alone, attorneys’ fees are properly awarded.

(2) Plaintiff’s Extensive and Ongoing Litigation Misconduct Also Justifies the Award of Defendants’ Attorneys’ Fees

The Supreme Court also confirmed that the “court may order fee-shifting because of a party’s litigation misconduct, whatever the reasonableness of his claims or defenses.” *Kirtsaeng*, 136 S. Ct. at 1988-89. Here, plaintiff’s misconduct in litigation started with the filing of his complaint in the wrong court with scurrilous and improper allegations, and continued unabated into the Jury’s deliberations when he falsely represented to the Court that the video exhibit the Jury requested had never been played during the trial.¹

i. Plaintiff’s Filing of Complaints with Improper Allegations and in the Wrong Court, Followed by Plaintiff’s Repeated Filing of Meritless Motions

Despite the fact that no defendant has offices or any jurisdictional presence in Pennsylvania, plaintiff filed this action in the Eastern District of Pennsylvania.

¹ Plaintiff’s Philadelphia counsel’s misconduct in this case is a continuation of the misconduct that earned him a substantial monetary sanction as well as a three-months-and-a-day suspension in the Eastern District of Pennsylvania. *In re Francis Malofiy*, No. 15-2472, 2016 WL 3553258 (3d Cir. June 30, 2016); *Marino v. Usher*, No. CIV. 11-6811, 2014 WL 2116114, at *1 (E.D. Pa. May 21, 2014) (“Throughout this copyright litigation, Plaintiff’s Counsel, Francis Malofiy, has behaved in a flagrantly unprofessional and offensive manner”). Plaintiff, having chosen his Philadelphia counsel despite the charges and pending suspension, ratified his counsel’s ongoing misconduct in this action.

1 Further, he fought to keep it there, putting forth objectively unreasonable arguments
2 that, although rejected by the District Court (*Skidmore v. Led Zeppelin*, 106 F. Supp.
3 3d 581, 587-88 (E.D. Pa. 2015)), nevertheless forced defendants to retain local
4 counsel and incur unnecessary fees in establishing that the case did not belong there.

5 Plaintiff also included in his complaints improper and false factual allegations.

6 For example, to sully the reputations of the individual defendants plaintiff
7 listed purported instances of prior settlements or potential-but-never-asserted
8 copyright infringement claims. Complaint at 4, ¶10; FAC at 4, ¶ 10). Plaintiff never
9 even attempted to prove the validity of those claims and any reasonable lawyer
10 would have known that prior claims and settlements are irrelevant. *United States v.*
11 *Bailey*, 696 F.3d 794, 800-01 (9th Cir. 2012) (“There is no logical relevancy to
12 admitting this type of evidence.”); Fed. R. Evid. 404(a)(1) & 408.

13 As another example, plaintiff repeatedly alleged that the 1967 Exclusive
14 Songwriter’s and Composer’s Agreement between Hollenbeck Music and Randy
15 Wolfe, which expressly provides it is governed by California law, is “void” because
16 Wolfe was a minor at the time and the 1967 Agreement was not approved by a
17 California court. Complaint at 6-7, ¶¶ 22-30. No reasonable plaintiff would make,
18 let alone persist in making those allegations given that (1) a minor’s contract is valid
19 unless promptly disaffirmed upon the minor attaining majority (Cal. Civ. Code § 35,
20 now Cal. Prob. Code § 6710); (2) plaintiff continues to this day to receive and accept
21 Hollenbeck’s royalty payments under the 1967 Agreement; and (3) a simple search
22 of the Court records confirms that the 1967 Agreement was approved by the
23 Superior Court in 1967. Order approving Agreement, Trial Exh. 2060. Yet, with no
24 legal basis, plaintiff repeatedly suggested at trial that the 1967 Agreement is invalid.

25 Plaintiff also filed a series of applications and motions, each of which lacked
26 merit and was denied or stricken by the Court, including:

- 27 • Plaintiff’s February 2, 2016 Application to Amend Scheduling Order,
28 denied (Doc. 95);

- Plaintiff's February 25, 2016 Motion to file Amended Complaint to belatedly add defendants, denied (Doc. 133);
- Plaintiff's March 26, 2016 Motion to withdraw deemed admissions, stricken (Doc. 153)
- Plaintiff's May 17, 2016 Motion to compel the individual defendants to appear for trial, denied (Doc. 224);
- Plaintiff's June 11, 2016 Motions for sanctions and the exclusion of defendants' musicologist, stricken (Doc. 233); and
- Plaintiff's June 12, 2016 Motion for reconsideration of the Court's April 4, 2016 Order granting defendants partial summary judgment, stricken (Doc. 233).

Plaintiff's meritless filings not only imposed substantial additional burdens on the Court, but caused Warner/Chappell to incur additional attorneys' fees, including in filing opposition papers.

ii. Plaintiff – Ignoring Clear Law that there Is No Copyright in the Taurus Sound Recording – Served Inadmissible Expert Reports, Forcing Warner/Chappell to Incur Additional Attorneys' Fees and Expert Fees

Plaintiff specifically sued for infringement of the copyright in the *Taurus* musical composition registered with the Copyright Office in 1968. Complaint at 7, ¶ 34. And the law is unequivocally clear that the pre-February 15, 1972 *Taurus* sound recordings are not protected by that copyright. *Dowling v. United States*, 473 U.S. 207, 211 n. 4 (1985) ("Congress did not extend federal copyright protection to sound recordings until the Sound Recording Act of 1971 . . . and then only to sound recordings fixed after February 15, 1972"). As a result, "Plaintiff's only copyright claim lies in the musical composition of *Taurus*, not the sound recording." Order (Doc. 159) on Defs' MSJ at 17. No reasonable person could conclude otherwise.

1 Yet, plaintiff's initial expert disclosures included four reports based solely on
2 claimed similarities between *Stairway to Heaven* and the irrelevant *Taurus*
3 recordings, and never even mentioned the relevant copyrighted work, namely the
4 *Taurus* deposit copy. See, e.g., Defs' MIL No. 4 (Doc. 137). Plaintiff's submission
5 of expert reports as to *Taurus* recordings instead of the *Taurus* deposit copy was
6 directly contrary to established law. See, e.g., *Newton v. Diamond*, 388 F.3d 1189,
7 1194 (9th Cir. 2004) ("A crucial problem with the testimony of [plaintiff's] experts
8 is that they continually refer to the 'sound' produced by [plaintiff's] technique,"
9 while his "copyright extends only to the elements . . . that he wrote on the score"),
10 *cert. denied* 545 U.S. 1114 (2005).

11 Further, plaintiff's improper expert reports not only required that defendants
12 respond and object to them, but led to the Court's ruling that plaintiff's reports were
13 inadmissible and providing plaintiff leave to submit a second round of reports.
14 Order (Doc. 203). Because of plaintiff's initial submission of inadmissible reports,
15 followed by plaintiff's submission of new reports that inexplicably continued to rely
16 on the *Taurus* recordings, Warner/Chappell incurred yet additional attorneys' fees.
17 Plaintiff also refused to produce his experts for deposition until the Court rejected
18 his absurd argument that expert discovery had been cut-off with fact discovery.
19 Order (Doc. 216). Plaintiff's misconduct also required that defendants submit new
20 rebuttal reports and objections to plaintiff's new reports and his experts' continued
21 reliance on the *Taurus* recordings. See, e.g., Defs' Trial Brief (Doc. 223) at 17-24.

22 Given that plaintiff sues on a copyright in the *Taurus* deposit copy and that the
23 *Taurus* sound recordings are inadmissible, it was improper and misconduct for
24 plaintiff to persist in trying to inject the *Taurus* sound recordings into this case.

25 ***iii. Plaintiff's Complete Failure to Comply with LR 16 and***
26 ***the Court's Order Re Pretrial Obligations***

27 Plaintiff also completely failed to comply with this Court's Local Rule 16 and
28 his pretrial obligations, including under the Court's Order for Jury Trial (Doc. 79).

For example, plaintiff failed to cooperate in the timely filing of the required Joint Witness List, the required Joint Exhibit List and the required proposed Pretrial Conference Order. *See*, Decl. (Doc. 201) *re* late filing of pretrial documents, at 1.

As another example, plaintiff insisted on including in the late-filed Joint Exhibit List thousands of documents that no reasonable person could believe would be admissible at trial, including plaintiff's listing of every document on the Court's docket, entire deposition transcripts and hundreds of documents identified only generically (such as 275 separate exhibits each designated only as unidentified "Sheet Music Sold for Exploitation"). *Id.* at 2. Plaintiff also filed on the first day of trial a 383-page Supplemental Exhibit List (Doc. 242) that added new exhibits and re-numbered exhibits, causing confusion throughout the trial.

iv. Plaintiff's Misconduct up to and throughout Trial

Plaintiff's misconduct continued up to and throughout the trial.

Plaintiff successfully resisted discovery as to his allegations that the Trust is a charitable organization and uses its funds to buy instruments for needy children in Ventura County, California. Given his refusal to allow discovery on those allegations, and their lack of relevance and potential prejudicial effect, at the April 25, 2016 Pretrial Conference the Court tentatively granted defendants' Motion in Limine No. 8 to exclude all evidence and argument as to plaintiff's and the Trust's use of funds and any recovery in this action for charitable purposes. Order (202) at 2 ("Defendants' Motion in Limine 8 to exclude evidence about the charitable goals of the Trust (DE 141), is GRANTED"). But plaintiff's counsel, knowing the Court's ruling and the potential prejudicial effect on the jury pool, literally minutes later stood before media cameras in front of the Courthouse and stated:

"If money is won in this case, it's to be used to buy musical instruments for children who are in need in Ventura County."

Defs' Objections to Pltf's Trial Conduct (Doc. 252) at 1-2, 7. Plaintiff's public statement was a willful violation of California Rule of Professional Responsibility

1 Rule 5-120(A), which prohibits public statements that could impact the trial. L. R.
2 83-3.1.2 (adopting Cal. Rules of Professional Responsibility).

3 Plaintiff also directly violated the Court's rulings on defendants' Motions in
4 Limine. For example, the Court granted defendants Motion in Limine No. 9 to
5 exclude pre-May 31, 2011 payments, including advances received after that date but
6 under the 2008 contract between two non-parties, WB Music Corp. and Flames of
7 Albion. Following that ruling, the Court sustained defendants' objection to
8 admission of the 2008 contract. Anderson Decl. Exh 4 (Trial Transcript) at 544:6 to
9 545:10. But, plaintiff then elicited testimony from his damages expert as to the
10 advances, which plaintiff and the expert mischaracterized as payments for post-2011
11 exploitation. *Id.* at 771:20 to 773:18. On cross-examination and only after the Court
12 intervened, did plaintiff's expert admit that the payments "were made under the
13 terms of [the] 2008 contract." *Id.* at 783:4-22. Plaintiff's expert's testimony as to
14 millions of dollars of payments was barred by the Court's ruling granting
15 defendants' Motion in Limine and was elicited by plaintiff in direct contempt of the
16 Court's ruling.

17 Plaintiff also violated another of the Court's in Limine rulings when, after the
18 Court confirmed on the first day of trial its ruling "exclud[ing] evidence about the
19 charitable goals of the Trust" (Order (Doc. 202) at 2), plaintiff's counsel elicited
20 from his first witness, Janet Wolfe, that the Trust is a charity:

21 "Q. What is the Randy Craig Wolfe Trust?

22 "A. It was my mother's mission to create a legacy for my brother, and
23 it benefits charity."

24 Anderson Decl. Exh. 4 (Trial Transcript) at 157:14-16. Plaintiff's counsel also
25 directly violated that ruling by stating in leading questions to plaintiff that the Trust
26 used its funds to buy instruments for children. *Id.* at 752:9-11 ("Is it accurate that the
27 assets of the Trust, estate, and its income shall be used for the purpose of providing
28 musical instruments and associated materials . . ."). Plaintiff persisted, over

1 sustained objections, in violating the Court’s ruling. *Id.* at 752:24 to 754:24.

2 In addition, on the eve of trial plaintiff purported to issue to defendants and to
3 non-parties “notices” to appear and trial subpoenas directed to unidentified “persons
4 most knowledgeable,” all without any basis in the Federal Rules of Civil Procedure
5 or otherwise. Anderson Decl. at 1, ¶ 4, & Exh. 2.

6 Throughout the trial plaintiff also falsely stated to the Jury, repeated in loaded
7 questions and stated to the press that plaintiff had engaged defendants’ musicologist,
8 who “flipped” to represent defendants.² Plaintiff also improperly and falsely stated
9 in opening argument that he would call defense counsel to the stand to testify as to
10 their supposed “duplicitous” conduct. Anderson Decl. Exh. 4 (Trial Transcript) at
11 125:20 to 126:3.

12 Also, in questioning John Paul Jones plaintiff misrepresented plaintiff’s
13 newly-re-numbered exhibit 100164 as being a recording of an interview in 1972
14 shortly after *Stairway to Heaven* was written, when, in truth, the exhibit is an
15 interview in 1990, or almost twenty years later. *Id.* at 943:4 to 944:22; Anderson
16 Decl. at 1-2, ¶ 5.

17 As another example of plaintiff’s gross misconduct, his counsel presented to
18 the Jury a photograph altered to omit two people and create the false impression that
19 Robert Plant was speaking with Mark Andes. Anderson Decl. Exh. 4 (Trial
20 Transcript) at 298:15 to 299:17; Defs’ Decl. *re* Pltf’s Altered Exh. 535 (Doc. 291),
21 Anderson Decl. at 2, ¶ 6, & Exh. 3; Cal. R. Prof. Responsibility 5-200(B)
22 (prohibiting counsel from “seek[ing] to mislead the judge, judicial officer, or jury by
23 an artifice”).

24 Plaintiff also misrepresented to the Court that the 1996 renewal of copyright
25 in the *Taurus* musical composition “terminated” Wolfe’s 1967 Agreement with

26
27 ² <http://mms.tveyes.com/Transcript.asp?StationID=780&DateTime=6%2F18%2F2016+1%3A11%3A21+AM&Term=Led+Zeppelin&PlayClip=TRUE>. *See, also*
28 Trial Transcript at 905:12-907:5.

1 Hollenbeck. Anderson Decl. Exh. 4 (Trial Transcript) at 720:8-10. Aside from the
2 fact that plaintiff testified he still receives payments from Hollenbeck under that
3 agreement, plaintiff's representation that Wolfe's renewal terminated the 1967
4 Agreement is plainly untrue. 3 M. Nimmer & D. Nimmer, *Nimmer on Copyright* §
5 9.06[B] ("When the copyright owner transfers rights in the renewal term . . . and
6 survives until renewal vesting, then rights in the renewal term belong to the
7 assignee"); Defs' Mtn. for JMOL (Doc. 250) at 2-4; *see, also* Cal. R. Prof.
8 Responsibility 5-200(B) (prohibiting counsel from seeking to mislead the court by
9 "false statement of fact or law").

10 Plaintiff's misconduct continued even into the Jury's deliberations. When the
11 Jury asked to hear plaintiff's expert's recorded guitar performance of the *Taurus*
12 musical composition, plaintiff misrepresented to the Court that the Jury heard only
13 his expert's performance of the bass clef of the composition, which misrepresents
14 the actual *Taurus* composition by leaving out the treble clef. Anderson Decl. Exh. 4
15 (Trial Transcript) at 1301:3-13, 1303:21 to 1304:5. In truth, the Jury had heard
16 plaintiff's Exhibit 525a with the entire deposit copy performed (*id.* at 296:9-18), and
17 that is what they asked to hear.

18 Plaintiff is guilty of continued and gross misconduct throughout the case and,
19 for that additional reason, attorneys' fees should be awarded.

20 **(3) The Factors Mentioned in Fogerty Also Confirm that**
21 **Attorneys' Fees Are Properly Awarded**

22 *Kirtsaeng* highlighted objective unreasonableness and litigation misconduct as
23 alternative grounds to award attorneys' fees to the prevailing party on a copyright
24 claim, but also recounted that *Fogerty* "noted" "'several non-exclusive factors' to
25 inform a court's fee-shifting decisions: 'frivolousness, motivation, objective
26 unreasonableness[,] and the need in particular circumstances to advance
27 considerations of compensation and deterrence.'" *Kirtsaeng*, 136 S. Ct. at 1985,
28 *quoting Fogerty*, 510 U.S. at 534, n. 19. "[C]ourts may not rely on [these] factors if

1 they are not ‘faithful to the purposes of the Copyright Act’” when applied in a
2 particular case. *Fantasy*, 94 F.3d at 558, *quoting Fogerty*, 510 U.S. at 34, n. 19.
3 However, those factors also cut in favor of a fee award here.

4 ***i. The Degree of Success Obtained on the Claim***

5 “In deciding whether to award fees under the Copyright Act, the district court
6 should consider, among other things: the degree of success obtained on the claim; . .
7 . .” *Maljack*, 81 F.3d at 889. Defendants’ success is complete: Judgment has been
8 entered in their favor, dismissing plaintiff’s action in its entirety. The Copyright Act
9 is furthered by successfully defending a copyright claim. *Fogerty*, 510 U.S. at 527.

10 Also, in determining the degree of success the Court may compare the
11 plaintiff’s settlement position with the ultimate result. *Ingram v. Oroudjian*, 647
12 F.3d 925, 927 (9th Cir. 2011); *BWP Media USA Inc. v. Rich Kids Clothing Co.,*
13 *LLC*, 103 F. Supp. 3d 1242, 1246-47 (W.D. Wash. 2015). Here, even though
14 plaintiff’s potential recovery was limited to low six figures, he demanded
15 \$12,000,000 or co-ownership of the *Stairway to Heaven* copyright, neither of which
16 he could have recovered in this action even if he had prevailed. Defendants’
17 successful defense of claims for which plaintiff made such demands further confirms
18 the high degree of success defendants obtained.

19 The degree-of-success factor unequivocally cuts in favor of the award of fees.

20 ***ii. Frivolousness of Plaintiff’s Position***

21 If the prevailing defendant’s defense furthered the policies of the Copyright
22 Act, attorneys’ fees are properly awarded even if the plaintiff’s position was
23 reasonable. *Fantasy*, 94 F.3d at 558. But, frivolousness cuts in favor of a fee award,
24 *Maljack*, 81 F.3d at 889, and is further support for an award of attorneys’ fees here.

25 Plaintiff’s copyright infringement claims ran headlong into well-established
26 law confirming that the copyrighted work is limited to the *Taurus* deposit copy and
27 that there is no copyright protection for the elements on which plaintiff based his
28 claim: a commonplace descending chromatic line, the random selection of two or

1 three notes and the bare pitches that were not even in the same sequence. *Smith v.*
2 *Jackson*, 84 F.3d 1213, 1216, n. 3 (9th Cir. 1996) (“common or trite” musical
3 elements not protected); *Funky Films, Inc. v. Time Warner Entm’t Co., L.P.*, 462
4 F.3d 1072, 1077 (9th Cir. 2006) (“non-protectable elements” must be “filter[ed] out
5 and disregard[ed]”), *quoting Cavalier v. Random House, Inc.*, 297 F.3d 815, 822
6 (9th Cir. 2002); *Swirsky v. Carey*, 376 F.3d 841, 848 n. 13 (9th Cir. 2004)
7 (“concentration solely on pitch sequence may break music down beyond
8 recognition”); Copyright Office Compendium §§ 313.4(B), 313.4(C) & 802.5(A)
9 (unprotected material includes chromatic scales, arpeggios and a “music phrase
10 consisting of three notes”).

11 While attorneys’ fees are properly awarded to a prevailing defendant even if
12 the plaintiff’s position was reasonable (*Fantasy*, 94 F.3d at 558), plaintiff’s claims
13 were not reasonable and this factor further confirms fees should be awarded.

14 ***iii. The Parties’ Respective Motivations***

15 Defendants’ motivation was and is to defend themselves and *Stairway to*
16 *Heaven* against claims of infringement and the impounding and enjoining of that
17 composition and recordings and sheet music of that composition. Defendants’
18 motivation furthered the Copyright Act’s purposes. *Fogerty*, 510 U.S. at 527
19 (“copyright law ultimately serves the purpose of enriching the general public
20 through access to creative works”). “[D]efendants who seek to advance a variety of
21 meritorious copyright defenses should be encouraged to litigate them” *Id.* For
22 that reason, alone, this factor cuts in favor of the award of attorney’s fees.

23 In addition, plaintiff’s motivation was base: after nearly a half-century of
24 inaction, plaintiff relied on public domain elements shared by the works to try to
25 coerce a massive settlement that he could not have achieved in this action even if he
26 had prevailed. Plaintiff’s motivation impedes the creation of new works and ignores
27 the boundaries of copyright protection, thereby frustrating the Copyright Act and its
28 important policies. *Fogerty*, 510 U.S. at 527.

1 The factor of motivation also cuts decidedly in favor of awarding fees.

2 ***iv. Objective Reasonableness of Factual and Legal Positions***

3 While, again, attorneys' fees are properly awarded to a prevailing defendant
4 even if the plaintiff's position was perfectly reasonable (*Fantasy*, 94 F.3d at 558),
5 plaintiff repeatedly took positions that were outright misconduct and, at a bare
6 minimum, were objectively unreasonable. *See, above* at 5-12. Even if viewed as
7 only objectively unreasonable, plaintiff's conduct supports the award of attorneys'
8 fees to defendants. *Maljack*, 81 F.3d 890 (attorneys' fees properly awarded to
9 prevailing defendant where plaintiff's "copyright claims . . . are, if not frivolous, at
10 least factually unreasonable," and "an award of fees may deter baseless suits").

11 While attorneys' fees are properly awarded because defendants' defense of the
12 case furthered the policies of the Copyright Act, plaintiff's objectively unreasonable
13 conduct also confirms attorneys' fees should be awarded.

14 ***v. The Need in Particular Circumstances to Advance***
15 ***Considerations of Compensation and Deterrence***

16 In terms of compensation and in order to achieve the equal treatment of
17 prevailing plaintiffs and defendants required by *Fogerty*, 510 U.S. at 534, "when the
18 prevailing party is the defendant, who by definition receives not a small award but
19 no award, the presumption in favor of awarding fees is very strong." *Eagle Serv.*
20 *Corp. v. H2O Industr. Serv. Inc.*, 532 F.3d 620, 625 (7th Cir. 2008), *quoting*
21 *Assessment Tech. of WI, LLC v. WIREdata, Inc.*, 361 F.3d 434, 437 (7th Cir. 2004).

22 Compensation is especially important here because the attorneys' fees were
23 not borne by an insurer. Because the claim plaintiff asserts is so old,
24 Warner/Chappell's insurer denied coverage and Warner/Chappell itself has borne the
25 attorneys' fees it incurred in successfully defending against plaintiff's claim.
26 Anderson Decl. at 5, ¶ 16. That cuts strongly in favor of awarding Warner/Chappell
27 attorneys' fees.

28 ///

1 In addition, plaintiff sued nearly a half-century late even though the copyright
2 owner and Randy Wolfe had never sued and plaintiff's own experts admitted the
3 claimed similarity is based on a public domain descending chromatic line.
4 Accordingly, the interest in deterring potential claimants from asserting stale and
5 meritless copyright claims also cuts in favor of awarding attorneys' fees.

6 The successful defense of plaintiff's copyright claims satisfied the "the pivotal
7 criterion" of "[f]aithfulness to the purposes of the Copyright Act" (*Fantasy*, 94 F.3d
8 at 558), by furthering the copyright "purpose of enriching the general public through
9 access to creative works . . . ," and the "peculiarly important" copyright policy of
10 enforcing the "boundaries of copyright law." *Fogerty*, 510 U.S. at 527. For these
11 reasons alone, and because "defendants who seek to advance a variety of meritorious
12 copyright defenses should be encouraged to litigate them . . . ," attorneys' fees are
13 properly awarded. Further, plaintiff's litigation misconduct, as well as defendants'
14 complete success, their motivation, plaintiff's motivation and plaintiff's
15 unreasonable and even frivolous positions all confirm this is a proper case for the
16 award of attorneys' fees.

17 Accordingly, Warner/Chappell respectfully submits that its Motion for
18 attorneys' fees should be granted.

19 (c) **Apportionment of Attorneys' Fees between Plaintiff's Copyright**
20 **Claims and "Right of Attribution" Claim Would Be Improper: the**
21 **Claims are "Related Claims" Arising from the Same Core Facts**

22 The Court need not attempt to apportion fees between plaintiff's copyright
23 claims and "right of attribution" claim and, instead, for at least two reasons an award
24 under the Copyright Act properly includes the fees in defending the entire suit.

25 First, plaintiff's "right of attribution" claim was so patently unsupported by
26 law that no material time was spent on it. Anderson Decl. at 8, ¶ 18.

27 Second, it is well-established that a party who prevails on a claim for which
28 attorneys' fees are recoverable, can recover attorneys' fees on that claim and any

1 rates commensurate with or substantially below the customary rate in the community
2 for attorneys with comparable experience in the field.

3 Accordingly, the *Kerr* factors confirm that the requested fee award is
4 reasonable.

5 **3. CONCLUSION**

6 Defendants – faced with plaintiff’s ongoing misconduct and objectively
7 unreasonable positions – triumphed against plaintiff’s claims for permanent
8 injunctive relief that would have deprived the public of the *Stairway to Heaven*
9 musical composition, recordings and sheet music. The successful defense of
10 plaintiff’s claims furthered the purposes of the Copyright Act and the sum of
11 \$613,471 in attorneys’ fees is reasonable. Accordingly, those fees and the fees
12 hereafter incurred by Warner/Chappell in connection with this Motion and the
13 accompanying Motion and Application, are properly awarded to Warner/Chappell.

14
15 Dated: July 7, 2016

/s/ Peter J. Anderson
Peter J. Anderson, Esq.
LAW OFFICES OF PETER J. ANDERSON
A Professional Corporation
Attorney for Defendants
JAMES PATRICK PAGE, ROBERT
ANTHONY PLANT, JOHN PAUL JONES,
WARNER/CHAPPELL MUSIC, INC.,
SUPER HYPE PUBLISHING, INC.,
ATLANTIC RECORDING CORP., RHINO
ENTERTAINMENT COMPANY and
WARNER MUSIC GROUP CORP.

Tab 11

Peter J. Anderson, Esq., Cal. Bar No. 88891
E-Mail: pja@pjanderson.com
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100 Wilshire Boulevard, Suite 2010
Santa Monica, CA 90401
Tel: (310) 260-6030
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Attorneys for Defendants
JAMES PATRICK PAGE, ROBERT ANTHONY
PLANT, JOHN PAUL JONES, WARNER/CHAPPELL
MUSIC, INC., SUPER HYPE PUBLISHING, INC.,
ATLANTIC RECORDING CORP., RHINO
ENTERTAINMENT COMPANY and WARNER
MUSIC GROUP CORP.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	
vs.)	DECLARATION OF PETER J.
)	ANDERSON IN SUPPORT OF
)	DEFENDANT WARNER/
LED ZEPPELIN, <i>et al.</i> ,)	CHAPPELL'S MOTION FOR
)	AWARD OF ATTORNEYS' FEES
Defendants.)	
)	Date: August 8, 2016
)	Time: 9:00 a.m.

Courtroom of the Honorable
R. Gary Klausner
United States District Court

1 **DECLARATION OF PETER J. ANDERSON**

2 I, Peter J. Anderson, declare and state:

3 **1. PRELIMINARY STATEMENT**

4 1. I am an attorney admitted to practice before this Court and all Courts of
5 the State of California. I have personal knowledge of the following facts and could
6 competently testify to these facts if called upon to do so.

7 2. In this action, I represent defendants James Patrick Page, Robert Plant,
8 John Paul Jones, Warner/Chappell Music, Inc. (“Warner/Chappell”), Atlantic
9 Recording Corporation, Rhino Entertainment Company and Warner Music Group
10 Corp. This Declaration is submitted in support of Warner/Chappell’s Motion for the
11 award of attorneys’ fees pursuant to Section 505 of the Copyright Act of 1976, 17
12 U.S.C. Sections 101 *et seq.*

13 **2. PLAINTIFF’S CONDUCT DURING THE COURSE OF THIS ACTION**

14 3. Attached to this Declaration as Exhibit 1 is a true and correct copy of
15 the letter I wrote plaintiff’s counsel after, among other things, the press report
16 plaintiff’s counsel’s statements immediately following the April 25, 2016 Pretrial
17 Conference, that any recovery by plaintiff would be used to buy musical instruments
18 for children who are in need in Ventura County.

19 4. On the eve of trial, plaintiff purported to issue to defendants and to non-
20 parties “notices” to appear and trial subpoenas directed to unidentified “persons
21 most knowledgeable,” even though there is no basis in the Federal Rules of Civil
22 Procedure for those “notices” and trial subpoenas. Attached to this Declaration as
23 Exhibit 2 is a true and correct copy of the Objections I prepared and served, in
24 response to plaintiff’s “notices” and trial subpoenas.

25 5. In questioning John Paul Jones at trial, plaintiff’s counsel used
26 plaintiff’s newly-re-numbered exhibit 100164, which plaintiff’s counsel represented
27 as being a recording of a 1972 interview close to the time *Stairway to Heaven* was
28 written, and he repeatedly asked Mr. Jones whether his memory regarding the

1 creation of *Stairway to Heaven* was better in 1972. In truth, however, plaintiff's
2 newly-renumbered exhibit was a 1990 interview, twenty years after the release of
3 *Stairway to Heaven*, and because of the new numbering we were unaware at the time
4 that plaintiff's counsel had misrepresented the year of the interview.

5 6. Attached to this Declaration as Exhibit 3 is a true and correct copy of
6 the Declaration regarding plaintiff's use at trial of an altered copy of the photograph
7 that plaintiff marked as Exhibit 535.

8 7. Attached to this Declaration as Exhibit 4 are true and correct copies of
9 the Trial Transcript in this action cited in defendants' Memorandum in support of
10 their Motion for attorneys' fees.

11 **3. MY QUALIFICATIONS AND HOURLY RATES CHARGED BY MY**
12 **FIRM AND IN THE COMMUNITY**

13 8. I graduated from the UCLA School of Law in 1979, where I was a
14 member of the UCLA Law Review. In 1979, I was admitted to practice in the State
15 of California and before this District Court. I am also admitted to practice before the
16 United States Supreme Court, the Ninth Circuit Court of Appeals and the United
17 States District Court for the Southern District of California. I have been in good
18 standing with the California State Bar and these United States Courts at all times.
19 Since 1996 I have been rated by Martindale-Hubbell as an "AV" attorney and
20 beginning in 2006 and for each of the years since then I have been designated a
21 Southern California "Super Lawyer" by *Law & Politics* and *Los Angeles* magazines.

22 9. I have practiced entertainment and copyright litigation since April
23 1980, when I served as second chair for the plaintiffs in the jury trial of a copyright
24 infringement and implied contract case that resulted in a jury verdict for the
25 plaintiffs and against Paramount Pictures, American Broadcasting Cos. and others.
26 Among other matters, I was counsel principally in charge of the prevailing party's
27 case in, for example:

- 28 • *Stewart v. Abend*, 495 U.S. 207 (1990) and *Abend v. MCA, Inc.*, 863

1 copyright infringement claims and his “right of attribution” claim.

2 23. Warner/Chappell also respectfully requests that the Court award it the
3 attorney’s fees incurred to my firm in connection with its Motion for attorney’s fees,
4 Application to Tax Costs and Motion for Additional Costs, as follows:

5 (a) Attorney’s fees of \$9,768 incurred through today, in
6 connection with the foregoing Motions and Application;

7 (b) Attorney’s fees in connection with the review of plaintiff’s
8 oppositions papers and the preparation of defendants’ Reply papers, in
9 the estimated amount of \$3,300; and

10 (c) Attorney’s fees in connection with the attendance at the
11 hearing on the Motion, if one is held.

12 I declare under penalty of perjury that the foregoing is true and correct.

13 Executed on July 7, 2016, in Los Angeles County, California.

14
15 /s/ Peter J. Anderson
16 PETER J. ANDERSON
17
18
19
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27
28

EXHIBIT 1

LAW OFFICES OF
PETER J. ANDERSON
A PROFESSIONAL CORPORATION
100 WILSHIRE BOULEVARD
SUITE 2010
SANTA MONICA, CALIFORNIA 90401
TELEPHONE (310) 260-6030
FACSIMILE (310) 260-6040
EMAIL: pja@pjanderson.com

May 6, 2016

By E-Mail & U.S. Mail

Francis Malofiy, Esq.
Francis Alexander, LLC
280 N. Providence Road
Suite 1
Media, PA 19063

Glen L. Kulik, Esq.
Kulik Gottesman & Siegel LLP
15303 Ventura Boulevard
Suite 1400
Sherman Oaks, CA 91403

Re: *Led Zeppelin adv. Skidmore*

Dear Gentlemen:

I am writing regarding the following disturbing developments.

First, we have learned that immediately following the Court's Pretrial Conference last Monday, you made at least the following statements to the press on camera and in front of the Courthouse, and which were broadcast on local television and elsewhere:

MR. KULIK: If money is won in this case, it's to be used to buy musical instruments for children who are in need in Ventura County.

MR. MALOFIY: They can't hide behind counsel in the misty mountains over there in the UK.

The Court's Local Rule 83-3.1.2 requires that counsel be familiar with the California Rules of Professional Conduct and adopts those Rules as the standards governing counsel's conduct. And, California Rule of Professional Conduct 5-120(A) states:

"A member who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the member knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter."

While Mr. Malofiy is not a member of the California Bar, the Rule is applicable to him by reason of Local Rule 83-3.1.2.

Francis Malofiy, Esq.
Glen L. Kulik, Esq.
May 6, 2016
Page 2

Of course, in speaking to the press you knew your statements would “be disseminated by means of public communication . . .,” including to the potential jurors and their friends and relatives. You also know or should have known that the statements you made to the press on camera had “a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.”

Indeed, you had just left a hearing in which Judge Klausner advised us all that his intention was to grant defendants’ motion to exclude all argument and evidence that the Trust would use any recovery in this case to buy musical instruments for children who are in need in Ventura County, California. Yet, minutes later Mr. Kulik made that exact same statement to the press, on camera, knowing and intending the prejudicial statement would be broadcast to the public. Aside from the issue of purposefully trying to frustrate Judge Klausner’s ruling by doing an end run on him and going directly to the public, Mr. Kulik’s statement is a clear violation of Rule 5-120.

Neither is there any doubt that Mr. Malofiy knew, or should have known, that accusing defendants of trying to hide in the United Kingdom and avoid trial is – especially when broadcast to a public that includes the potential juror pool and their friends and relatives – substantially likely to cause prejudice. Mr. Malofiy’s statement is also a violation of Rule 5-120.

Second, in direct violation of the December 28, 2015 Stipulated Protective Order in this action, plaintiff and you have publicly disclosed information that defendants designated “CONFIDENTIAL” under that Protective Order.

As you know, defendants designated as “CONFIDENTIAL” the 2008 Administration Agreement between WB Music and Flames of Albion. Ignoring the Court’s Protective Order, however, you included in plaintiff’s publicly-filed memorandum in opposition to defendants’ motion *in limine* no. 9, the 2008 Agreement’s primary financial terms, including the duration of the 2008 Agreement, the dollar amount of the advance paid under the 2008 Agreement and the timing of the advance payment. Plaintiff’s Memo. (Doc. 174) at 2:5-12, & at 2-4.

There can be no doubt that when you publicly disclosed this “CONFIDENTIAL” information you were very much aware that the information was subject to the Protective Order: as support for your disclosures you specifically cited to the copy of the 2008 Agreement that had been “filed under seal.” *Id.* at 2:9.

Further, we also have just learned that Mr. Malofiy apparently also made the same disclosures to at least some members of the press, who have publicly reported the advance amount paid under the 2008 Agreement designated “CONFIDENTIAL.”

The Stipulated Protective Order provides, among other things, that the “violation of this Order may be punished by any and all appropriate measures including, without

Francis Malofij, Esq.
Glen L. Kulik, Esq.
May 6, 2016
Page 3

limitation, contempt proceedings and/or monetary sanctions.” Stipulated Protective Order at 13, ¶ 14. In addition, the willful violation of the Court’s Protective Order is a breach of ethical obligations as lawyers and officers of the Court. *See, e.g.* Cal. Bus. & Prof. Code § 6103 (“A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension”).

Third, we also have learned that you disclosed to the press that in last Monday’s mediation plaintiff offered to settle on the basis of the payment of \$1 and a portion of the copyright in *Stairway to Heaven* and that the offer was rejected. In addition to being another violation of Rule 5-120, that disclosure breaches the Mediation and Confidentiality Agreement and violates the Court’s Local Rules.

In the Mediation Confidentiality Agreement, each of you and plaintiff agreed in writing that:

“Consistent with Central District of California Civil L.R. 16-15, General Order 11-10, related Federal Rules of Evidence and to the extent applicable, California Evidence Code Sections 703.5 and 1115-1128, the participants in mediation in the above-captioned case agree that:

- “1. No written or oral communication made by any party, attorney, mediator or other participant in a mediation in the above-named case may be used for any purpose in any pending or future proceeding unless all parties, including the mediator, so agree.”

See, also L.R. 16-15.8(a) (“all counsel and parties . . . shall treat as ‘confidential information’ . . . anything that happened or was said relating to the subject matter of the case in mediation, any position taken, ‘Confidential information’ shall not be . . . disclosed to anyone not involved in the litigation. . . .”).

These are each serious violations and we fully expect that you will not repeat them. However, defendants reserve all of their rights and remedies and, should these or any similar violations occur, defendants will proceed accordingly, including bringing the violations to the Court’s attention.

Very truly yours,



Peter J. Anderson

cc: Helene M. Freeman, Esq.

EXHIBIT 4

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
3 HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE
4 - - -
5)
6 MICHAEL SKIDMORE, AS TRUSTEE FOR)
7 THE RANDY CRAIG WOLFE TRUST,)
8)
9 PLAINTIFF,)
10)
11 vs.) No. CV 15-03462-RGK
12)
13 LED ZEPPELIN; JAMES PATRICK PAGE;)
14 ROBERT ANTHONY PLANT; JOHN PAUL)
15 JONES; SUPER HYPE PUBLISHING,)
16 INC.; WARNER MUSIC GROUP CORP.,)
17 PARENT OF WARNER/CHAPPELL MUSIC,)
18 INC.; ATLANTIC RECORDING)
19 CORPORATION; RHINO ENTERTAINMENT)
20 COMPANY,)
21 DEFENDANTS.)
22)
23)
24)
25)

15
16 REPORTER'S TRANSCRIPT OF
17 JURY TRIAL DAY 1
18 VOLUME II, PAGES 98-199
19 TUESDAY, JUNE 14, 2016
20 1:28 P.M.
21 LOS ANGELES, CALIFORNIA
22

23 CINDY L. NIRENBERG, CSR 5059, FCRR
24 U.S. Official Court Reporter
25 255 East Temple Street
Los Angeles, CA 90012
www.msfedreporter.com

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

I N D E X

PLAINTIFF'S WITNESSES: PAGE

JANET WOLFE

DIRECT BY MR. KULIK 143

CROSS BY MR. ANDERSON 160

JAY FERGUSON

DIRECT BY MR. MALOFIY 164

CROSS BY MR. ANDERSON 181

REDIRECT BY MR. MALOFIY 194

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OPENING STATEMENT BY MR. ANDERSON 128

1 decided to strike the whole treble clef and say it's not
2 important. Well, obviously it wasn't important because it led
3 to a conclusion that the two songs were substantially similar.

4 I wish I could play you that audio clip right now or
5 even the video clip. I'm not able to do so. I'm very upset by
6 that. I'm not going to show that. However, let me talk about
7 a few other things before I wrap up.

8 Throughout the course of this case, defendants tried
9 to bust the Trust at every step they could. They failed.

10 THE COURT: Counsel, that's argument.

11 MR. MALOFIY: All right. I was going to show what
12 the evidence is going to show, Your Honor.

13 THE COURT: You can tell us what the evidence is
14 going --

15 MR. MALOFIY: The evidence is going to show that
16 throughout -- in this case, the defendants tried to bust the
17 Trust. It didn't work.

18 The evidence is going to show that defendants tried
19 to say that Randy California didn't own the copyright.

20 Defendants -- in this case, the evidence is going to
21 show that defense counsel, both Mr. Anderson and Mr. Freeman
22 [sic], worked with Universal Music Group and Rondor Music and
23 plaintiff's publisher to try to extinguish plaintiff of the
24 copyright in "Taurus" and did so most recently.

25 And we're going to bring them on the stand and we're

1 going to question them as to these issues, because it was
2 underhanded, it was duplicitous, and it should have never
3 happened.

4 And you're going to hear about that. And you're
5 going to hear why their expert, Dr. Ferrara, had done a
6 musicological analysis for Universal Music Group and then
7 Universal Music Group tried to extinguish the Trust of its
8 copyright. Those are also things you're going to hear about.

9 Now, let me just stay focused on a couple of things.

10 The most memorable and distinct pairs or what makes
11 "Stairway" unique is the AB, BC, C to F-sharp pair. You're
12 going to hear about that. What makes it unique is it doesn't
13 go to the fifth. You're going to hear about that, and you're
14 also going to see that. What also makes it unique and distinct
15 is the composition itself is done in a very unique and creative
16 way.

17 We'll have pictures and other things to show you.
18 We'll talk about damages later, but for the most part, that
19 sums it up.

20 I'm going to give one last-ditch effort to see if I
21 can get this audio or video to play.

22 *(Counsel and technologist confer off the record.)*

23 MR. MALOFIY: I apologize, Your Honor. I apologize
24 to the jury.

25 THE COURT: Okay. Counsel, we'll go on. You can

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: JUNE 14, 2016

/s/ Cindy L. Nirenberg, CSR No. 5059

Official Court Reporter

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

- - -

MICHAEL SKIDMORE, AS TRUSTEE FOR)
THE RANDY CRAIG WOLFE TRUST,)
PLAINTIFF,)
vs.) No. CV 15-03462-RGK
LED ZEPPELIN; JAMES PATRICK PAGE;)
ROBERT ANTHONY PLANT; JOHN PAUL)
JONES; SUPER HYPE PUBLISHING,)
INC.; WARNER MUSIC GROUP CORP.,)
PARENT OF WARNER/CHAPPELL MUSIC,)
INC.; ATLANTIC RECORDING)
CORPORATION; RHINO ENTERTAINMENT)
COMPANY,)
DEFENDANTS.)
_____)

REPORTER'S TRANSCRIPT OF

JURY TRIAL DAY 1

VOLUME II, PAGES 98-199

TUESDAY, JUNE 14, 2016

1:28 P.M.

LOS ANGELES, CALIFORNIA

CINDY L. NIRENBERG, CSR 5059, FCRR
U.S. Official Court Reporter
255 East Temple Street
Los Angeles, CA 90012
www.msfedreporter.com

I N D E X

PLAINTIFF'S WITNESSES: PAGE

JANET WOLFE

DIRECT BY MR. KULIK 143

CROSS BY MR. ANDERSON 160

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DIRECT BY MR. MALOFIY 164

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OPENING STATEMENT BY MR. ANDERSON 128

1 A. He was swimming and visiting my mother.

2 Q. Is that where your mother lived at that time?

3 A. My mother had moved back to Hawaii.

4 Q. And was his body ever found?

5 A. No.

6 Q. Now, can you tell me more about the relationship between
7 your mother and Randy?

8 A. They were extremely close. My mother put all her energy
9 and love into my brother to help him develop his musical
10 talents, and she acted as sort of behind-the-scenes manager for
11 his career.

12 Q. Now, are you familiar with the Randy Craig Wolfe Trust?

13 A. Yes, I am.

14 Q. What is the Randy Craig Wolfe Trust?

15 A. It was my mother's mission to create a legacy for my
16 brother, and it benefits charity.

17 Q. And do you know Mr. Skidmore?

18 A. Yes, I do.

19 MR. ANDERSON: Your Honor, the motion in limine -- I
20 apologize, but the motion in limine -- one of the motions in
21 limine deals with this subject that was granted.

22 THE COURT: You have to tell me which motion,
23 counsel.

24 MR. ANDERSON: Absolutely, Your Honor.

25 Your Honor, it was Defendants' Motion in Limine

1 Number 8.

2 THE COURT: I'm not so sure, counsel, where he is
3 going on that question. I'm going to find out where he is
4 going with his question.

5 MR. KULIK: I'm moving on, Your Honor.

6 THE COURT: Okay.

7 BY MR. KULIK:

8 Q. How many times before today have you met Mr. Skidmore?

9 A. Two or three times.

10 Q. And when is the last time you met him before today?

11 A. Before my mother died.

12 Q. When did your mother die?

13 A. Seven years ago.

14 Q. Can you tell me, who is Mr. Skidmore?

15 A. He was a friend of my brother's and he became a very close
16 friend to my mother.

17 Q. Were you involved at all in setting up the trust?

18 A. No.

19 Q. Are you a beneficiary of the trust?

20 A. No.

21 Q. Do you have any relationship with the trust whatsoever?

22 A. No, I don't.

23 Q. If the plaintiff wins any money in this case, is any of
24 that money yours?

25 A. No, it's not.

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: JUNE 14, 2016

/s/ Cindy L. Nirenberg, CSR No. 5059

Official Court Reporter

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

- - -

MICHAEL SKIDMORE, AS TRUSTEE FOR)
THE RANDY CRAIG WOLFE TRUST,)
PLAINTIFF,)
vs.) No. CV 15-03462-RGK
LED ZEPPELIN; JAMES PATRICK PAGE;)
ROBERT ANTHONY PLANT; JOHN PAUL)
JONES; SUPER HYPE PUBLISHING,)
INC.; WARNER MUSIC GROUP CORP.,)
PARENT OF WARNER/CHAPPELL MUSIC,)
INC.; ATLANTIC RECORDING)
CORPORATION; RHINO ENTERTAINMENT)
COMPANY,)
DEFENDANTS.)
_____)

REPORTER'S TRANSCRIPT OF JURY TRIAL

DAY 2, VOLUME II, PAGES 287-450

WEDNESDAY, JUNE 15, 2016

1:02 P.M.

LOS ANGELES, CALIFORNIA

CINDY L. NIRENBERG, CSR 5059, FCRR
U.S. Official Court Reporter
255 East Temple Street
Los Angeles, CA 90012
www.msfdreporter.com

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

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I N D E X

PLAINTIFF'S WITNESSES: PAGE

MARK ANDES

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BRUCE PATES

DIRECT BY MR. MALOFIY	333
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JAMES PATRICK PAGE

DIRECT BY MR. MALOFIY	343
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--	-----

E X H I B I T S

TRIAL EXHIBITS MARKED ADMITTED

2058	310	
373	344	
160-A		391
98		397

1 THE COURT: That's it. Other than that, the two
2 being played together, the Court's already said it's irrelevant
3 at this time, so let's not direct any more questions to the two
4 being played together.

5 MR. MALOFIY: Okay. Fair enough.

6 BY MR. MALOFIY:

7 Q. Let me move to 525-V.

8 MR. ANDERSON: And, Your Honor, if he could identify
9 what it is. We have a motion in limine. I'm concerned
10 about --

11 THE COURT: Let's -- let me find out. Has it been
12 received into evidence yet?

13 MR. MALOFIY: I was already -- this -- I don't
14 believe there is an objection here.

15 THE COURT: I don't know. Let's find out.

16 MR. MALOFIY: Well, I don't -- I don't want to say
17 what it is, Your Honor, because the whole point is that --
18 whether or not this witness can identify.

19 THE COURT: Why don't you ask your next question and
20 I'll tell you whether or not it's permissible or not.

21 Next question.

22 MR. MALOFIY: Can he identify the song being played.
23 It is the "Taurus" deposit copy. I'm not sure why there's
24 objections from defense counsel here.

25 THE COURT: Okay. Counsel, back down a little bit.

1 All he wants to do is be put on notice as to what
2 exhibit you're showing. As long as you tell him that, he has a
3 chance to look at it, and then he has a chance to make an
4 objection or not. But he does have the right to know what
5 you're talking about before you start talking about it.

6 MR. MALOFIY: Yes. He --

7 THE COURT: All we want to know is the exhibit number
8 so he knows whether or not he wants to make an objection.

9 MR. MALOFIY: Thank you, Your Honor. 525-V.

10 THE COURT: Okay. Any objection, counsel?

11 MR. ANDERSON: Based on the -- based on the
12 description on the audio file, no, Your Honor.

13 THE COURT: Okay. Okay, counsel.

14 MR. MALOFIY: Thank you.

15 *(Playing of videotape.)*

16 BY MR. MALOFIY:

17 Q. What song is that?

18 A. "Taurus."

19 Q. All right. Now, it sounds slightly different from the
20 prior audio example we had.

21 Can you explain why?

22 MR. ANDERSON: Objection. Lacks foundation, calls
23 for speculation, and lack of expertise in the area.

24 MR. MALOFIY: He --

25 THE COURT: Well, calls for expert testimony also.

1 Sustained.

2 MR. MALOFIY: Well, it goes back to the actual
3 deposit copy and the issues in this case.

4 THE COURT: You've asked him to give an expert
5 opinion on it, counsel, and he hasn't been designated as an
6 expert.

7 MR. MALOFIY: It's only --

8 THE COURT: You'll have plenty of experts to testify,
9 I'm sure.

10 MR. MALOFIY: Yes, Your Honor. It would only be
11 because of -- well, I'll move forward, Your Honor.

12 THE COURT: Okay.

13 MR. MALOFIY: I'll have my experts handle that.

14 THE COURT: Okay.

15 BY MR. MALOFIY:

16 Q. There was a couple -- we talked about Mother's Club
17 earlier on in your testimony this morning.

18 Do you recall that?

19 A. Yes.

20 Q. Okay. And in your testimony, you had identified, I
21 think -- I believe you had a -- you had a meet-and-greet with
22 Mr. Page and Mr. Plant in the beginning of that show.

23 Do you recall your testimony there?

24 A. I do recall the testimony.

25 Q. All right. You shared with me that that -- you wanted to

1 clarify an issue there; is that correct?

2 A. Yes.

3 Q. What -- please tell the jury what fact you wanted to
4 clarify.

5 A. When I recall, I really don't have a memory of Jimmy Page
6 being at that meet-and-greet.

7 Q. Is your -- is your memory vivid and distinct as to Robert
8 Plant?

9 A. Yes.

10 Q. And is your memory vivid and distinct as to after the
11 concert, playing pool, drinking, and having a good time with
12 Robert Plant and other members of Spirit?

13 A. Yes.

14 Q. Okay.

15 MR. MALOFIY: I'd like to pull up Exhibit 535.

16 Please wait until I get clearance. 535.

17 *(Counsel confer off the record.)*

18 MR. ANDERSON: Just relevance, Your Honor. It's a
19 photograph from, I believe, the '80s.

20 MR. MALOFIY: It's a picture of Robert Plant and also
21 Mark Andes showing that they do know each other, and it goes to
22 their relationship over the years.

23 THE COURT: Overruled. Overruled. You may show it.

24 MR. MALOFIY: 535, yes.

25 *(The exhibit was displayed on the screen.)*

1 MR. MALOFIY: Now, can you blow that up perhaps right
2 here (indicating)?

3 BY MR. MALOFIY:

4 Q. Do you recognize this photograph?

5 MR. ANDERSON: Your Honor, that has been edited.
6 That is not the same photograph that was produced to us three
7 days ago.

8 MR. MALOFIY: Your Honor, that's -- I don't know how
9 he's saying it's edited, but I object to that
10 mischaracterization. This was pulled down --

11 THE COURT: Let's take it down at this time.

12 MR. MALOFIY: I'm sorry, Your Honor.

13 THE COURT: That's okay.

14 Let's take it down at this time and I'm going to give
15 you two a chance to talk to each other and find out if it's the
16 same one that you had shown him beforehand and if you have a
17 copy of it so you can compare them.

18 MR. ANDERSON: I believe I do.

19 THE COURT: Well, just -- the two of you, you can
20 figure it out.

21 *(Counsel confer off the record.)*

22 THE COURT: You know, we may be wasting an awful lot
23 of time here. Let me just ask you a question.

24 Did you have pictures taken with yourself and
25 Mr. Plant?

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: JUNE 16, 2016

/s/ Cindy L. Nirenberg, CSR No. 5059

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

- - - -

MICHAEL SKIDMORE, AS TRUSTEE FOR)
THE RANDY CRAIG WOLFE TRUST,)

PLAINTIFF,)

vs.)

No. CV 15-03462-RGK

LED ZEPPELIN; JAMES PATRICK PAGE;)
ROBERT ANTHONY PLANT; JOHN PAUL)
JONES; SUPER HYPE PUBLISHING,)
INC.; WARNER MUSIC GROUP CORP.,)
PARENT OF WARNER/CHAPPELL MUSIC,)
INC.; ATLANTIC RECORDING)
CORPORATION; RHINO ENTERTAINMENT)
COMPANY,)

DEFENDANTS.)

REPORTER'S TRANSCRIPT OF JURY TRIAL

DAY 3, VOLUME 1; PAGES 451 TO 582

THURSDAY, JUNE 16, 2016

8:17 A.M.

LOS ANGELES, CALIFORNIA

SANDRA MacNEIL, CSR 9013, RPR, CRR, RMR
Official Reporter, U.S. District Court
255 East Temple Street
Los Angeles, CA 90012
213.894.5949

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1 THE COURT: Okay.

2 BY MR. MALOFIY:

3 Q. Can you read me the Bates number on the bottom right-hand
4 corner of that document, Mr. Page?

5 A. Yes, certainly. It's D000650.

6 Q. And do you agree that this is the Flames of Albion
7 publishing deal where Led Zeppelin, the surviving members and
8 the heirs of John Bonham, received 60 million dollars over a
9 course of time for the Led Zeppelin song catalog?

10 A. I can't agree with that till I've had a look.

11 MR. ANDERSON: Objection, Your Honor --

12 THE COURT: Excuse me.

13 MR. ANDERSON: I'm sorry. It's a 2008 contract, so
14 it's way outside the statute of limitations and within the
15 motion in limine --

16 MR. MALOFIY: He -- this is --

17 MR. ANDERSON: -- number 9.

18 MR. MALOFIY: This has been raised repeatedly. The
19 payments are in the statutory period, and they're for a period
20 of ten years, which brings it to 2018.

21 THE COURT: Does this concern publishing rights for
22 things that were produced before three years ago?

23 THE WITNESS: It -- it's dated January the 1st, 2008.

24 THE COURT: Sustained.

25 MR. MALOFIY: With all due respect --

1 THE COURT: Sustained, Counsel. I'm not going to
2 argue in front of the jury. We've talked about it many times
3 in the past. Sustained.

4 BY MR. MALOFIY:

5 Q. Is that your signature on the back page of that document?

6 A. Yeah, it is.

7 MR. MALOFIY: I'd like to move that into evidence,
8 Your Honor.

9 MR. ANDERSON: Objection, relevance, Your Honor.

10 THE COURT: Sustained.

11 BY MR. MALOFIY:

12 Q. Do you agree that the monies attributable to this
13 publishing deal were received in the last three years?

14 MR. ANDERSON: Objection. It's a 2008 contract. The
15 payments were under that contract. It's way outside the
16 statute.

17 THE COURT: Sustained.

18 MR. MALOFIY: One moment, Your Honor, with the Court's
19 indulgence.

20 (Plaintiff's counsel conferred privately.)

21 MR. MALOFIY: I have what's been marked by defendants,
22 I'll use their Bates label so it would be easier, D39243,
23 Report of Directors and Unaudited Financial Statements, Year
24 End March 31st, 2015, for Flames of Albion.

25 MR. ANDERSON: Okay. If counsel could also provide

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported proceedings
held in the above-entitled matter and that the transcript page
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Date: JUNE 17, 2016

/S/ SANDRA MACNEIL

Sandra MacNeil, CSR No. 9013

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

- - -

MICHAEL SKIDMORE, AS TRUSTEE FOR)
THE RANDY CRAIG WOLFE TRUST,)
PLAINTIFF,)
vs.) No. CV 15-03462-RGK
LED ZEPPELIN; JAMES PATRICK PAGE;)
ROBERT ANTHONY PLANT; JOHN PAUL)
JONES; SUPER HYPE PUBLISHING,)
INC.; WARNER MUSIC GROUP CORP.,)
PARENT OF WARNER/CHAPPELL MUSIC,)
INC.; ATLANTIC RECORDING)
CORPORATION; RHINO ENTERTAINMENT)
COMPANY,)
DEFENDANTS.)
_____)

REPORTER'S TRANSCRIPT OF JURY TRIAL

DAY 3, VOLUME II, PAGES 583-723

THURSDAY, JUNE 16, 2016

1:01 P.M.

LOS ANGELES, CALIFORNIA

CINDY L. NIRENBERG, CSR 5059, FCRR
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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

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DIRECT BY MR. MALOFIY 701

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1 or is it off?

2 MR. ANDERSON: No. It's absolutely clear the Trust
3 does not own the copyright, and it's not until the last week
4 that they claimed it did.

5 There is an assignment, a 1967 assignment, from Randy
6 California in the '67 songwriter agreement of the initial and
7 renewal term of copyright.

8 MR. KULIK: We know that the copyright was terminated
9 in 1996 when Randy Wolfe, as he had a right to do, terminated
10 the copyright, registered the copyright in his own name.

11 The only public record today, the only record, is
12 Randy Wolfe, and now the Trust is the owner of the copyright.

13 THE COURT: Okay. And, counsel, let me just --

14 MR. KULIK: So it is an issue.

15 THE COURT: Let me just help both -- well, it may or
16 may not be. Let me just help you out.

17 Mr. Skidmore said that he is the executor and all of
18 the intellectual property of Randy Wolfe's is in that -- is in
19 that Trust. As of now, that's the only evidence we have.

20 I'm not assuming that they have evidence otherwise or
21 not. I -- but until they come up with evidence otherwise, it's
22 just not an issue. That's where -- it's presumed to be in the
23 trust, like Mr. Skidmore said.

24 I don't know if you have some document that you're
25 going to pull out that says -- and if you do, I'm going to be

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
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/s/ Cindy L. Nirenberg, CSR No. 5059

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

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DEFENDANTS.)

REPORTER'S TRANSCRIPT OF JURY TRIAL

DAY 4, VOLUME 1; PAGES 725 TO 848

FRIDAY, JUNE 17, 2016

8:30 A.M.

LOS ANGELES, CALIFORNIA

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REDIRECT EXAMINATION

BY MR. MALOFIY:

Q. Has Janet Wolfe, who took the stand earlier in this case, ever disputed you as the trustee?

A. No.

MR. ANDERSON: Objection, relevance, Your Honor.

THE COURT: Sustained.

BY MR. MALOFIY:

Q. Has Marla Wolfe ever disputed you --

THE COURT: Sustained, Counsel, if you're talking about dispute of the Trust. I just want to make sure you understand the last ruling, and I don't want you to ask the same question again. So go ahead.

MR. MALOFIY: I'm sorry.

THE COURT: That's okay.

BY MR. MALOFIY:

Q. Are you familiar with the fifth amendment of the Trust?

A. Yes.

Q. And is it accurate the fifth amendment of the Trust allows that the assets of the Trust and its estate and income shall be used for the purpose of providing musical instruments --

MR. ANDERSON: Objection, Your Honor. This is within the motion in limine.

THE COURT: Excuse me, Counsel.

MR. MALOFIY: The door was opened.

1 THE COURT: Counsel, just a second. One at a time.

2 Objection why?

3 MR. ANDERSON: It's within the motion in limine
4 relating to the Trust and its use of funds. That was granted.
5 And we did not offer the fifth amendment.

6 MR. MALOFIY: The fifth --

7 THE COURT: Overruled.

8 MR. MALOFIY: Thank you, Your Honor.

9 Q. Is it accurate that the assets of the Trust, estate, and
10 its income shall be used for the purpose of providing musical
11 instruments and associated materials --

12 MR. ANDERSON: Your Honor --

13 THE COURT: Excuse me. That is sustained, Counsel,
14 yes. As to what the funds were used for was sustained, is a
15 subject of a motion in limine. It was excluded. You can't get
16 into that.

17 MR. MALOFIY: On the narrow issue of opening the door
18 to the beneficiary, there was issue --

19 THE COURT: Counsel, is this a question?

20 MR. MALOFIY: No. I'll ask my next question, Your
21 Honor.

22 THE COURT: Okay.

23 BY MR. MALOFIY:

24 Q. Is the beneficiary of the Trust Ventura County School
25 District?

1 MR. ANDERSON: Objection, Your Honor.

2 THE COURT: Sustained. It has no relevancy what
3 they're using the Trust for other than if it's going to one of
4 the parties in this case.

5 MR. MALOFIY: One second, Your Honor.

6 MR. ANDERSON: Also, Your Honor, given that he is --
7 the question mischaracterizes the Trust, the document, I think
8 it's appropriate that the jury be instructed to ignore the
9 statement that counsel just made.

10 THE COURT: Counsel, anytime I sustain an objection,
11 they're to ignore the question. They know that.

12 MR. ANDERSON: Thank you, Your Honor.

13 MR. MALOFIY: Your Honor, if I may, briefly.

14 THE COURT: Yes.

15 MR. MALOFIY: The issue is --

16 THE COURT: Oh, no. We don't argue anything in front
17 of jury, Counsel, as far as legal issues. You do that anytime
18 we take a break in the case. We can do that outside the
19 presence of the jury.

20 It's very clear that the Court stated that anything as to
21 what the monies in the Trust are used for other than going to
22 the beneficiaries, what it's being used for or where it's being
23 sent or whatever, whoever's going to benefit from it was
24 excluded from this case.

25 So go ahead and ask your next question.

1 MR. MALOFIY: The only issue I had was it was asked,
2 the beneficiary of the first, second, or third amendment, by
3 Mr. Anderson.

4 THE COURT: Counsel, are you asking a question? We
5 don't argue matters of law in front of the jury.

6 MR. MALOFIY: I don't want to do that, Your Honor.

7 THE COURT: Okay.

8 BY MR. MALOFIY:

9 Q. When Mr. Anderson was asking you questions as far as the
10 beneficiaries, do you recall him asking questions of the first,
11 second, and third amendment?

12 A. Yes.

13 MR. ANDERSON: Objection, Your Honor.

14 BY MR. MALOFIY:

15 Q. The fifth amendment, who's the beneficiary?

16 MR. ANDERSON: Objection, Your Honor.

17 THE COURT: Sustained.

18 MR. MALOFIY: We move to admit the fifth amendment,
19 Your Honor.

20 MR. ANDERSON: Objection, Your Honor.

21 THE COURT: Based on what has already been presented
22 to the Court, sustained. Under the rules that have been
23 already set out before the trial and motions in limine,
24 sustained.

25 MR. MALOFIY: One moment, Your Honor. With the

1 Court's indulgence, one moment.

2 THE COURT: Yes.

3 BY MR. MALOFIY:

4 Q. Sir, there was an accusation by defense counsel that you,
5 in the opening, had unclean hands. Can you show the jury your
6 hands? Can you do that?

7 THE COURT: Sustained.

8 Counsel, there's no reason to be playing to the jury like
9 this. Ask a relevant question.

10 MR. MALOFIY: That's it, Your Honor.

11 THE COURT: Okay.

12 MR. ANDERSON: No recross, Your Honor.

13 THE COURT: Okay. You may step down, sir.

14 Okay. Next witness.

15 MR. MALOFIY: One moment, Your Honor. I have to
16 summons him from the hallway.

17 THE COURT: Okay.

18 While we're waiting for the next witness, ladies and
19 gentlemen, just so you understand what's going on here, the
20 suit is that the Trust owns the property rights interest here.
21 What the Trust does with them afterwards is not relevant. The
22 question is whether or not the Trust owns the property rights
23 or not.

24 (The witness entered the courtroom.)

25 THE CLERK: Good morning. Right here to be sworn,

MICHAEL EINHORN, CALLED AS A WITNESS BY THE PLAINTIFF,

DIRECT EXAMINATION

BY MR. MALOFIY:

Q. Mr. Einhorn, thank you for being here.

Where do you live?

A. I live in New Jersey.

Q. Let me apologize. Dr. Einhorn, correct?

A. Correct.

Q. All right. Thank you. And thank you for being here. I know you came in late last night; is that correct?

A. Correct.

Q. Now, can you tell me what your background is.

A. I have a Ph.D. in economics from Yale University. I taught economics at Rutgers University. I also taught as an adjunct professor in music economics at Fordham University and also in business at the Columbia University Graduate School of Business. And I worked in the music industry since 1997 on various matters connected with licensing and litigation.

Q. Now, did you have an opportunity -- and as it relates to this case, did you have an opportunity -- let me strike that.

Have you done economic analysis for copyright cases in the past?

A. Yes, I have.

Q. And how many of those analyses have you done?

A. I'd say about, oh, 10 to 15.

1 THE COURT: Okay.

2 THE WITNESS: What happened was, after May 31st, 2011,
3 Rhino paid Super Hype 10 million dollars for the right to
4 re-release the Led Zeppelin live album that was recorded
5 originally back in 2007.

6 THE COURT: Okay.

7 THE WITNESS: And I'm looking at the contents of that
8 album. That album had 17 songs.

9 THE COURT: I'm sorry, you've answered the question.
10 Next question.

11 BY MR. MALOFIY:

12 Q. Did you say 10 million and then an additional 5 million?

13 A. That's 10 million for the live. Then they paid them an
14 additional 5 million for the rights to re-release several other
15 albums.

16 Q. Now, to be clear, I just want to focus your testimony,
17 that's in addition to what we just discussed in the record --
18 the label revenues of 13.5 million, correct?

19 A. Correct.

20 Q. Now, is there also additional monies, publishing monies,
21 that was received pursuant to a contract which are within the
22 statutory period of May 31st, 2011, until today?

23 MR. ANDERSON: Objection, Your Honor. First of all,
24 it lacks foundation, but counsel's referring to the 2008
25 agreement, and the Court has already ruled that payments under

1 the 2008 agreement are outside the --

2 THE COURT: Sustained.

3 MR. ANDERSON: -- statute of limitations.

4 THE COURT: Sustained.

5 MR. MALOFIY: My question's actually a little bit
6 different.

7 THE COURT: Why don't you restate the question, then.

8 BY MR. MALOFIY:

9 Q. Did you have an opportunity to look at the financial
10 statements of the monies that were passed through to Mr. Plant
11 and Mr. Page?

12 A. Correct.

13 Q. And when you reviewed those financial statements which
14 were admitted into evidence yesterday in part, did you have an
15 opportunity to see the income that was coming in, the expenses,
16 and what was left?

17 A. Yes, I did.

18 Q. And did the expenses wipe out all the income and leave a
19 net profit of zero?

20 A. Correct.

21 MR. ANDERSON: Objection, document speaks for itself,
22 and also counsel is talking about payments under the 2008
23 agreement. They're publishing payments. Outside the statute
24 of --

25 THE COURT: Why don't we clarify what documents we're

1 talking about.

2 MR. MALOFIY: These documents were used in Mr. Page's
3 testimony yesterday. They're the financial --

4 THE COURT: Counsel, your question, why don't you
5 clarify it for the witness so he can testify.

6 BY MR. MALOFIY:

7 Q. Do you understand what documents I'm referring to? And to
8 be particular, it is the financial statements, and I'll --
9 financial statements marked as D39243 to D39321.

10 A. Yes.

11 Q. Okay. Did you have an opportunity to look at those?

12 A. I did.

13 Q. And did all the money that came into the -- into that
14 entity in 2015, year ending March 2015, if you look at the
15 second, third, I believe fourth page, does it indicate
16 6.6 million pounds going in, 6.6 million pounds going out, and
17 leaving a profit of zero?

18 MR. ANDERSON: Your Honor, again, those are payments
19 under the 2008 --

20 THE COURT: Understand. Counsel, I understand your
21 objection, and --

22 MR. ANDERSON: Thank you.

23 THE COURT: Let me ask the witness. We're referring
24 to any monies coming in and going out that you can attribute to
25 any re-release after 2011. Some of those payments may have

1 come in from -- they may be old payments coming in at all.
2 Have you been able to distinguish what came in just during that
3 time period?

4 THE WITNESS: Yes, I have.

5 THE COURT: Okay. Then your question is, just during
6 that time period.

7 BY MR. MALOFIY:

8 Q. And what was -- what is your conclusion?

9 THE COURT: Excuse me, Counsel.

10 MR. ANDERSON: The problem is, this gentleman doesn't
11 agree with Your Honor's ruling. He is basing that answer on
12 his belief that the payments under the 2008 agreement --

13 THE COURT: Counsel, you can get into that at
14 cross-examination. What I've asked him is if he can tell us
15 and designate what money came in and went out solely based on
16 the re-release after 2011, not based on any prior obligations
17 or anything else, and he said he could.

18 So go ahead.

19 MR. ANDERSON: Thank you, Your Honor.

20 THE WITNESS: Yes. According to state -- according to
21 the page I have in front of me, there was an invoice sent out
22 in between April 1st, 2014, and March 31st, 2015. There is an
23 invoice here.

24 THE COURT: Okay. But keep in mind, it's not relevant
25 what the invoice said. What's relevant is if you can show us

1 whether or not that invoice reflects only money that was
2 attributed to productions after 2011. So we want to make sure
3 that the invoice doesn't encompass something from 10 years ago
4 or 15 years ago. So the question is, can you do that?

5 THE WITNESS: I believe that is correct, yes.

6 THE COURT: Okay. Go ahead, then.

7 BY MR. MALOFIY:

8 Q. Please answer the question. What, in your expert opinion
9 and analysis, were you able to determine the revenues received
10 from -- from, excuse me, May 31st, 2011, until today as it
11 relates to publishing?

12 A. Well, I said first -- remember, I'm doing it, I said,
13 April 1st, 2014, to March 31st, 2015. 6.6 million pounds.

14 THE COURT: Okay.

15 BY MR. MALOFIY:

16 Q. And were all the expenses eat up -- did all the expenses
17 eat up that income?

18 A. Correct.

19 Q. And is that in addition to the 13.5 million, the
20 15 million revenues from Rhino, and -- this is in addition,
21 correct?

22 A. Yes.

23 Q. What's the total number if you add those up?

24 A. Well, that's 6.6 million.

25 Now let me go to the previous year. According to this

1 opinion.

2 MR. ANDERSON: Yes. I just want to make sure that
3 that's clear.

4 THE COURT: Next question.

5 MR. ANDERSON: Thank you, Your Honor.

6 THE WITNESS: I'm sorry, could you repeat the
7 question, please?

8 THE COURT: There was no question.

9 BY MR. ANDERSON:

10 Q. There was no question pending.

11 And I apologize, I'm just -- given your testimony, there
12 was several questions I'm not going to ask you.

13 The payments that you referred to on the publishing side,
14 for example, I think it came to roughly 6 million dollars,
15 those payments were under a contract dated in 2008; isn't that
16 correct?

17 A. In the numbers that I reported, I'm just reporting numbers
18 that were off sheets after May 31st, 2011. I didn't refer back
19 to the contract. These were numbers that were invoiced and
20 distributed after May 31st, 2011.

21 Q. Isn't it true that at your deposition you testified that
22 the publishing side -- you've testified to the publishing side
23 payments reflected in the many pages of documents we've
24 provided that were paid under the 2008 contract?

25 A. At the time of the deposition, I referred to the advances

1 that were paid under the terms of the 2008 advance contract.

2 Yeah, that is correct.

3 Q. Thank you.

4 Do you have any reason to doubt that the payments that you
5 were talking about on the publishing side today were payments
6 under the 2008 contract?

7 MR. MALOFIY: Objection.

8 THE COURT: Overruled.

9 You may answer.

10 THE WITNESS: These were payments for the use of the
11 composition after May 31st, 2011.

12 BY MR. ANDERSON:

13 Q. And those payments were made under a contract for the use
14 of the composition that was entered into in 2008, correct?

15 THE COURT: If you know.

16 THE WITNESS: There was a contract signed, as is
17 always the case, with a record deal. At some point after the
18 contract were signed --

19 THE COURT: I'm sorry. Just listen to the question
20 and answer the question.

21 THE WITNESS: They were made under the terms of a 2008
22 contract.

23 BY MR. ANDERSON:

24 Q. Thank you, sir.

25 And those payments under the 2008 contract were for the

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported proceedings
held in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Date: JUNE 19, 2016

/S/ SANDRA MACNEIL

Sandra MacNeil, CSR No. 9013

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE
- - -
MICHAEL SKIDMORE, AS TRUSTEE FOR)
THE RANDY CRAIG WOLFE TRUST,)
))
PLAINTIFF,)
))
vs.) No. CV 15-03462-RGK
))
LED ZEPPELIN; JAMES PATRICK PAGE;)
ROBERT ANTHONY PLANT; JOHN PAUL)
JONES; SUPER HYPE PUBLISHING,)
INC.; WARNER MUSIC GROUP CORP.,)
PARENT OF WARNER/CHAPPELL MUSIC,)
INC.; ATLANTIC RECORDING)
CORPORATION; RHINO ENTERTAINMENT)
COMPANY,)
))
DEFENDANTS.)
_____)

REPORTER'S TRANSCRIPT OF JURY TRIAL

DAY 4, VOLUME II, PAGES 849-966

FRIDAY, JUNE 17, 2016

1:01 P.M.

LOS ANGELES, CALIFORNIA

CINDY L. NIRENBERG, CSR 5059, FCRR
U.S. Official Court Reporter
255 East Temple Street
Los Angeles, CA 90012
www.msfedreporter.com

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

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1 BY MR. MALOFIY:

2 Q. Sir, the --

3 A. And the answer is yes.

4 MR. ANDERSON: Relevance.

5 THE COURT: Okay. Next question.

6 BY MR. MALOFIY:

7 Q. The answer is yes, you never did a report pro bono,
8 correct?

9 MR. ANDERSON: Objection.

10 THE COURT: Sustained. Irrelevant.

11 BY MR. MALOFIY:

12 Q. Now, in this case, you indirectly were working for the
13 plaintiff and then you flipped to work for the defendant for
14 \$100,000; isn't that correct?

15 MR. ANDERSON: Objection. Misstates the facts.

16 MR. MALOFIY: No.

17 BY MR. MALOFIY:

18 Q. Isn't that correct, sir?

19 A. Absolu --

20 THE COURT: Well, no. Excuse me. Excuse me.

21 First of all, it's argumentative. Second of all, I
22 don't know if it's correct or not.

23 Have you worked -- did you work for the plaintiff
24 in -- for a time and then -- and now you're working for the
25 defendant? When I say "working for," were you employed by the

1 plaintiff at one time and then employed by the defendant?

2 THE WITNESS: No.

3 BY MR. MALOFIY:

4 Q. Indirectly, sir.

5 A. No, not indirectly. I was --

6 THE COURT: Okay. The answer is no, you didn't.

7 THE WITNESS: The answer is no.

8 BY MR. MALOFIY:

9 Q. Sir, it was at your deposition that it was disclosed that
10 you, in fact, worked for plaintiff's publisher and never
11 disclosed the fact that you had done a musical --

12 THE COURT: Counsel, I'm sorry. You can't testify
13 asking questions. You can ask him a question, but what you're
14 trying to do is get testimony in front of the jury that the
15 witness hasn't testified to. So just ask the question.

16 BY MR. MALOFIY:

17 Q. Sir, isn't it true that you worked and did a musicological
18 analysis for Rondor Music? Yes or no?

19 A. Yes, and that is something that I freely said at my
20 deposition, it's not something that --

21 Q. Sir --

22 MR. MALOFIY: Strike the answer after "freely."

23 BY MR. MALOFIY:

24 Q. Yes, you did, correct?

25 THE COURT: No, no, no, counsel. Let the Court run

1 the court, okay? You're not the one to say, "You can only
2 answer yes," or, "You can only answer no." That's for the
3 Court to decide. He's answered the question. It's relevant.
4 It stays in.

5 Next question.

6 BY MR. MALOFIY:

7 Q. Sir, isn't Rondor Music an affiliate of Universal Music
8 Group, who administers the copyright on behalf of plaintiff?

9 MR. ANDERSON: Objection. Lacks foundation.

10 THE WITNESS: The answer is in two parts.

11 THE COURT: Overruled.

12 THE WITNESS: The first is that in my deposition, I
13 said that Rondor Music, who called me some years ago, not about
14 the "Taurus" deposit copy, is a division of Universal.

15 As to the second part, I am not aware that Universal
16 has an interest in "Taurus."

17 THE COURT: Okay. Next question.

18 BY MR. MALOFIY:

19 Q. Isn't it true that Rondor Music works with Universal and
20 you were hired by Universal?

21 THE COURT: If you know.

22 THE WITNESS: Well, I testified to that fact in my
23 deposition, that my understanding is Rondor Music is a division
24 of Universal Music Publishing Group.

25 ///

1 BY MR. MALOFIY:

2 Q. Isn't it true that you never disclosed, prior to your
3 deposition, that you had done a prior musicological analysis of
4 the "Taurus" sound recording and the "Stairway to Heaven" sound
5 recording?

6 MR. ANDERSON: Objection. Argumentative. Relevance.

7 THE COURT: Sustained on both grounds.

8 BY MR. MALOFIY:

9 Q. Isn't it true you did not disclose the facts which you
10 relied upon or the facts which you did not consider in coming
11 to your opinions in this case?

12 MR. ANDERSON: Same objections.

13 THE COURT: Sustained.

14 BY MR. MALOFIY:

15 Q. Sir, in your report, did you ever disclose the fact that
16 you initially looked at the "Taurus" sound recording?

17 MR. ANDERSON: Objection.

18 THE COURT: Sustained.

19 BY MR. MALOFIY:

20 Q. Sir --

21 THE COURT: Maybe you should listen to the Court when
22 it makes its ruling and understand -- rather than just asking
23 the same question over and over and over again -- when it's
24 been sustained, it's been sustained.

25 MR. MALOFIY: I'll move forward.

1 A. No.

2 Q. How about 1971?

3 A. No.

4 Q. All right. Now, do you remember giving an interview in
5 the early '70s about Jimmy Page and Robert Plant coming back
6 from a cottage called Bron-Yr-Aur with a guitar intro and verse
7 for "Stairway to Heaven"?

8 A. No.

9 MR. MALOFIY: Please play 164-A.

10 THE CLERK: What was the number?

11 MR. MALOFIY: 164-A.

12 My apologies. 100164 audio.

13 *(Playing of audio tape.)*

14 MR. MALOFIY: Pause it.

15 BY MR. MALOFIY:

16 Q. Do you recognize that person's voice?

17 A. Yes, I do.

18 Q. That's you, correct?

19 A. Yes, it is.

20 Q. All right. Did you hear what the recording said?

21 A. Yes.

22 Q. All right. And it said that they had come back from a
23 Welsh cottage with a guitar intro and a verse.

24 Did I hear that correctly?

25 A. Yes.

1 Q. Okay. Is your memory correct -- is your memory as
2 accurate today as it would have been in 1972?

3 A. Yes.

4 Q. It is?

5 THE COURT: He already answered yes.

6 BY MR. MALOFIY:

7 Q. Do you dispute that statement, sir?

8 A. I was -- it sounds like I was guessing at the time.

9 Q. So are you guessing today or you were guessing in 1972, a
10 year after it was written?

11 MR. ANDERSON: Objection, Your Honor. Argumentative.

12 THE COURT: Sustained.

13 BY MR. MALOFIY:

14 Q. Are you guessing today or do you know?

15 MR. ANDERSON: Objection, Your Honor. Argumentative.

16 THE COURT: Overruled.

17 THE WITNESS: I was guessing in 1972.

18 BY MR. MALOFIY:

19 Q. So your memory is better today than in 1972?

20 THE COURT: Asked and answered.

21 THE WITNESS: No. I do.

22 *(Laughter.)*

23 MR. MALOFIY: I'd like to move that into evidence.

24 BY MR. MALOFIY:

25 Q. One last thing. In 19- --

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: JUNE 18, 2016

/s/ Cindy L. Nirenberg, CSR No. 5059

Official Court Reporter

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

- - - -

MICHAEL SKIDMORE, AS TRUSTEE FOR)
THE RANDY CRAIG WOLFE TRUST,)

PLAINTIFF,)

vs.)

No. CV 15-03462-RGK

LED ZEPPELIN; JAMES PATRICK PAGE;)
ROBERT ANTHONY PLANT; JOHN PAUL)
JONES; SUPER HYPE PUBLISHING,)
INC.; WARNER MUSIC GROUP CORP.,)
PARENT OF WARNER/CHAPPELL MUSIC,)
INC.; ATLANTIC RECORDING)
CORPORATION; RHINO ENTERTAINMENT)
COMPANY,)

DEFENDANTS.)

REPORTER'S TRANSCRIPT OF JURY TRIAL

DAY 7; PAGES 1296 TO 1313

THURSDAY, JUNE 23, 2016

9:27 A.M.

LOS ANGELES, CALIFORNIA

SANDRA MacNEIL, CSR 9013, RPR, CRR, RMR
Official Reporter, U.S. District Court
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Los Angeles, CA 90012
213.894.5949

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SANTA MONICA, CALIFORNIA 90401
310.260.6030

ALSO PRESENT:

NATHAN OSHER, WARNER/CHAPPELL MUSIC, INC.

BRAD COHEN, WARNER MUSIC GROUP

SCOTT DUVAL, SENIOR TECHNOLOGY CONSULTANT

DAN MORENO, TRIAL TECHNICIAN

I N D E X

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LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 23, 2016

9:27 A.M.

- - - -

(Outside the presence of the jury:)

THE COURT: The record will reflect the jury is not present.

There's a note from the jury that you both have received copies of asking for plaintiff's audio of "Taurus" guitar -- of "Taurus" on guitar, and plaintiff's audio of "Stairway to Heaven" on guitar.

I understand there is a disagreement as to what that means?

MR. MALOFIY: Yes.

THE COURT: Okay. What's the plaintiff's position?

MR. MALOFIY: The plaintiff's position is that I don't think there's disagreement as to plaintiff's version of "Stairway to Heaven." The disagreement is plaintiff's version of "Taurus."

THE COURT: Is that the only disagreement? "Stairway to Heaven," everybody agrees on?

MR. MALOFIY: I believe so.

MR. ANDERSON: The exhibit they proposed playing "Stairway to Heaven" is not a complete, but it is what they put into evidence as --

THE COURT: Okay. So the only disagreement is what is

1 the "Taurus." And what's your position and what's the defense
2 position?

3 MR. MALOFIY: The one that was played as audio
4 throughout the trial was 527-V, which is the "Taurus" bass
5 clef. The actual full "Taurus" deposit copy was played live by
6 Mr. Hanson, and the "Taurus" deposit copy recorded was never
7 played in full for this court or anyone, and so --

8 THE COURT: Try that again. The plaintiff's --

9 MR. MALOFIY: The "Taurus" deposit that we played over
10 and over in court was 527-V, and that was Mr. Hanson playing
11 the "Taurus" deposit copy bass clef, and that's what we used in
12 this court as an audio exhibit throughout the trial and also
13 the comparison.

14 THE COURT: I don't want to know -- I want to know
15 exactly what it is. It's Hanson's -- go ahead, say it again.

16 MR. MALOFIY: Hanson's re-recording -- excuse me.
17 Hanson's performance of the "Taurus" deposit copy bass clef,
18 which was used in court over and over again. The version they
19 want to play was never played in court in full.

20 THE COURT: So this is the one that you -- what you
21 think they're referring to. And I don't care what was played
22 in court. What I'm interested in is what they're referring to,
23 and I'm going to ask them when they come in. What they're
24 asking for, or what you feel they're referring to is the
25 deposit copy played by --

1 MR. MALOFIY: Mr. Hanson, our expert.

2 THE COURT: Hanson.

3 MR. MALOFIY: Right.

4 THE COURT: And you feel it's what?

5 MR. ANDERSON: Your Honor, first of all, what he's --
6 it wasn't played throughout the trial, but --

7 THE COURT: I don't care. I want to find out what
8 they want.

9 MR. ANDERSON: Right. The problem with that recording
10 is, it's only part of "Taurus." It's only the one clef.

11 THE COURT: And I don't care if it's part or not.
12 It's what they ask for, and all I want to know is what they ask
13 for.

14 MR. ANDERSON: Also admitted into evidence --

15 THE COURT: And counsel, I've gotta tell both sides,
16 one counsel should be on any one issue. If you want to have --
17 I've had both counsel come up here. I can't control all these
18 counsel. One counsel on each side, okay?

19 Go ahead.

20 MR. ANDERSON: Exhibit 525-V is a plaintiff's exhibit.
21 It was admitted into evidence. It is Mr. Hanson playing the
22 entire -- both clefs of the "Taurus" deposit copy.

23 THE COURT: I'm sorry, playing --

24 MR. ANDERSON: Playing the "Taurus" deposit copy, not
25 just part of the "Taurus" deposit copy.

1 THE COURT: So you're saying that what you think they
2 mean is Hanson's playing of both.

3 MR. ANDERSON: Of the "Taurus" deposit copy, not just
4 part of the "Taurus" deposit copy.

5 THE COURT: Okay. So what you're saying is that you
6 think they mean that they want to hear Hanson's playing of the
7 entire deposit copy.

8 MR. ANDERSON: Right.

9 THE COURT: You're saying you think they want play
10 Hanson's version of --

11 MR. ANDERSON: Just the bass clef.

12 MR. MALOFIY: It's 527-V, "Taurus" bass clef, because
13 that was --

14 THE COURT: Just the bass clef.

15 MR. MALOFIY: Because that's what was played
16 throughout this trial.

17 THE COURT: Just -- I don't care if it was played
18 throughout the trial. I want to know what they want to know.
19 And I'm going to ask them. Do they want Hanson's version of
20 the entire deposit copy, or do they want Hanson's version of
21 just the bass clef?

22 MR. MALOFIY: And that's what was used for comparison,
23 for Your Honor's reference.

24 THE COURT: Okay.

25 MR. ANDERSON: And may I ask, Your Honor, if -- to

1 give them the choice, if they also want to hear the "Taurus" --
2 for example, if they're asking for the bass clef, if they also
3 want to hear the entire deposit copy.

4 THE COURT: I'm going to ask them what they're asking
5 for. I'm not going to indicate or suggest what they meant. I
6 want to know if they want the Hanson version of "Taurus," the
7 entire playing of the deposit copy, or just the playing of the
8 bass clef.

9 MR. ANDERSON: And if I could explain, Your Honor.

10 THE COURT: Yes.

11 MR. ANDERSON: He played live --

12 THE COURT: I don't care --

13 MR. ANDERSON: -- 525 --

14 THE COURT: Counsel, I don't care what he played. I
15 want to know what the jury wants to know. If they want to
16 know just two words of what a witness says, that's what I'm
17 going to --

18 MR. ANDERSON: This is important to that, I think. If
19 they want to hear what Mr. Hanson played live, it's 525-V.

20 THE COURT: What he played live.

21 MR. ANDERSON: On the stand, he played the entire
22 "Taurus," both hands, both clefs, and that -- a recording of
23 that was produced as 525-V.

24 MR. MALOFIY: It was never played in court.

25 MR. ANDERSON: So it helps the Court to identify what

1 they're asking for. If they wanted to hear what Mr. Hanson
2 played live, that would be 525-V.

3 MR. MALOFIY: It was never played in court, and the
4 purpose -- it was objected to by defense counsel, and the
5 objection was sustained by Your Honor.

6 THE COURT: I'm going to ask them whether they want
7 Hanson's playing of the bass -- or excuse me, of the deposit
8 copy, the entire deposit copy of "Taurus," or just the bass
9 clef.

10 MR. MALOFIY: Thank you.

11 MR. ANDERSON: Thank you, Your Honor.

12 THE COURT: Okay. Why don't we go ahead and bring
13 them in.

14 THE CLERK: All rise.

15 (Brief pause in the proceedings.)

16 (In the presence of the jury at 9:40 a.m.):

17 THE COURT: Okay. First of all, we have a note from
18 the jury.

19 The foreperson is who?

20 JURY FOREPERSON: (Raises hand.)

21 THE COURT: Juror No. 3. Okay. And that note reads
22 as follows.

23 First of all, the Court should, for the record, indicate
24 that the jury is present at this time, and we're going over a
25 note that you sent to the Court.

1 And the note says this, that we would like to listen to,
2 No. 1, plaintiff's audio of "Taurus" guitar, and, No. 2,
3 plaintiff's audio of "Stairway to Heaven" guitar.

4 Is that correct?

5 JURY FOREPERSON: (Nods head up and down.)

6 THE COURT: Yes?

7 JURY FOREPERSON: We'd like to listen to them twice.

8 THE COURT: You'd like to listen to them twice. Okay.

9 JURY FOREPERSON: Right.

10 THE COURT: Okay. As to the plaintiff's audio of
11 "Taurus" guitar, I've gotta figure out which one you mean. Do
12 you mean the full playing of the deposit copy or do you mean
13 just the bass clef playing of the deposit copy?

14 JUROR NO. 6: Bass clef.

15 JURY FOREPERSON: The full copy.

16 THE COURT: The full copy. Okay. So that's what you
17 want, those two, but you want them played twice?

18 JURY FOREPERSON: Yes.

19 THE COURT: Do you want them played twice in sequence,
20 or -- in other words, you want --

21 JURY FOREPERSON: In sequence.

22 THE COURT: For instance, do you want "Stairway to
23 Heaven" played twice and then "Taurus" played twice, or do you
24 want "Stairway to Heaven," "Taurus," "Stairway to Heaven" and
25 "Taurus"?

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported proceedings
held in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Date: JUNE 27, 2016

/S/ SANDRA MACNEIL

Sandra MacNeil, CSR No. 9013

Tab 12

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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	
vs.)	DEFENDANT WARNER/
)	CHAPPELL MUSIC, INC.'S NOTICE
)	OF MOTION AND MOTION FOR
LED ZEPPELIN, <i>et al.</i> ,)	AWARD OF ADDITIONAL COSTS
)	
Defendants.)	Date: August 8, 2016
)	Time: 9:00 a.m.

Courtroom of the Honorable
 R. Gary Klausner
 United States District Judge

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 8, 2016, at 9:00 a.m. or as soon thereafter as the matter may be heard in Courtroom 850 of the above-entitled District Court, located at 255 East Temple Street, Los Angeles, California, defendant Warner/Chappell Music, Inc. (“Warner/Chappell”) will move the above-entitled Court, the Honorable R. Gary Klausner, United States District Judge presiding, for an award of additional costs not taxable by the Clerk.

The Motion for additional costs is brought on the grounds that, as stated more fully in the accompanying Memorandum of Points and Authorities:

1. Because the Copyright Act provides for the prevailing party’s “recovery of full costs” (17 U.S.C. § 505), in copyright infringement cases “district courts may award otherwise non-taxable costs” (*Twentieth Century Fox Film Corp. v. Entm’t Distrib.*, 429 F.3d 869, 885 (9th Cir. 2005), *cert. denied* 548 U.S. 919 (2006)); and

2. Warner/Chappell is properly awarded its non-taxable costs, including expert witness fees, video deposition costs, trial transcript charges and counsel’s travel expenses for depositions in this action, and any service of process charges, deposition costs and witness fees that Warner/Chappell has asked the Clerk to tax, but which the Clerk deems non-taxable.

This Motion is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities, Declaration and Exhibits filed with this Notice of Motion and Motion, the pleadings, and papers on file in this action, the matters of which this Court may take judicial notice, and such additional matters and oral argument as may be offered in support of the Motions.

///

///

///

1 This Motion is made following the conference with plaintiff's counsel
2 pursuant to Local Rule 7-3, which took place on June 30, 2016.

3
4 Dated: July 7, 2016

/s/ Peter J. Anderson
Peter J. Anderson, Esq.
LAW OFFICES OF PETER J. ANDERSON
A Professional Corporation
Attorney for Defendants
JAMES PATRICK PAGE, ROBERT
ANTHONY PLANT, JOHN PAUL JONES,
WARNER/CHAPPELL MUSIC, INC.,
SUPER HYPE PUBLISHING, INC.,
ATLANTIC RECORDING CORP., RHINO
ENTERTAINMENT COMPANY and
WARNER MUSIC GROUP CORP.

Helene M. Freeman, Esq.
PHILLIPS NIZER LLP
Attorney for Defendants
JAMES PATRICK PAGE,
ROBERT ANTHONY PLANT and
JOHN PAUL JONES

Tab 13

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 JAMES PATRICK PAGE, ROBERT ANTHONY
 PLANT, JOHN PAUL JONES, WARNER/CHAPPELL
 MUSIC, INC., SUPER HYPE PUBLISHING, INC.,
 ATLANTIC RECORDING CORP., RHINO
 ENTERTAINMENT COMPANY and WARNER
 MUSIC GROUP CORP.

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 Attorneys for Defendants
 JAMES PATRICK PAGE, ROBERT ANTHONY
 PLANT and JOHN PAUL JONES

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	DEFENDANT WARNER/
vs.)	CHAPPELL MUSIC, INC.'S
)	MEMORANDUM OF POINTS AND
LED ZEPPELIN, <i>et al.</i> ,)	AUTHORITIES IN SUPPORT OF
)	MOTION FOR AWARD OF
Defendants.)	ADDITIONAL COSTS;
)	DECLARATION

Date: August 8, 2016
 Time: 9:00 a.m.

Courtroom of the Honorable
 R. Gary Klausner
 United States District Judge

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **1. INTRODUCTION**

3 Defendant Warner/Chappell Music, Inc. (“Warner/Chappell”) respectfully
4 submits this Memorandum in support of its Motion for the award of additional costs
5 not taxable by the Clerk.

6 In this copyright infringement action, the Court has discretion to award
7 Warner/Chappell “full costs” (17 U.S.C. § 505), and the award of full costs is
8 appropriate. As a prevailing party, Warner/Chappell is presumably entitled to costs,
9 and its successful defense against plaintiff’s copyright claim furthered the purposes
10 of the Copyright Act. *See*, Warner/Chappell Motion for Attorneys’ Fees, at Memo.
11 at 2-5. Accordingly, Warner/Chappell should be awarded its non-taxable costs,
12 including expert witness fees, video deposition costs, trial transcript charges and
13 counsel’s travel expenses for depositions in this action, as well as any service of
14 process charges, deposition costs and witness fees that Warner/Chappell has
15 concurrently applied to the Clerk to tax, but which the Clerk deems non-taxable.

16 **2. WARNER/CHAPPELL IS PROPERLY AWARDED ITS NON-**
17 **TAXABLE COSTS**

18 The Copyright Act provides:

19 “In any civil action under this title, the court in its discretion may
20 allow the recovery of full costs by or against any party other than the
21 United States or an officer thereof.”

22 17 U.S.C. § 505. Giving “full costs” meaning, the Ninth Circuit has held in a
23 copyright infringement action the “district courts may award otherwise non-taxable
24 costs, including those that lie outside the scope of [28 U.S.C.] § 1920, under § 505.
25 *Twentieth Century Fox Film Corp. v. Entm’t Distrib.*, 429 F.3d 869, 885 (9th Cir.
26 2005), *cert. denied* 548 U.S. 919 (2006). “In addition to regular taxable costs,
27 allowable costs under section 505 include costs for service of process, depositions
28 expenses, copying, computer assisted legal research, expert witness fees, and travel

costs.” *Perfect 10, Inc. v. Giganews, Inc.*, No. CV 11-07098-AB SHX, 2015 WL 1746484, at *6 (C.D. Cal. Mar. 24, 2015) (compiling cases).

Here, Warner/Chappell has currently applied to the Clerk to tax the taxable costs, including deposition transcript costs and service of process charges. As for non-taxable costs recoverable under 17 U.S.C. Section 505, Warner/Chappell is properly awarded:

- The video costs Warner/Chappell paid for the videotaped depositions taken by plaintiff or by defendant, totaling \$12,227.90;
- The expert witness fees charged by plaintiff’s experts for providing their deposition testimony in this action, of at least \$6,355.00;
- The expert witness fees Warner/Chappell incurred to defense expert witnesses, totaling \$138,571.00;
- The trial transcript costs totaling \$10,791.63; and
- Coach airfare and hotel charges Warner/Chappell incurred for its counsel’s attendance at depositions outside this judicial district, totaling \$11,753.53.

See, attached Declaration at 4-7, ¶¶ 3-8, & Exhibits 1-5.

In addition, Warner/Chappell respectfully requests that the Court award under Section 505 any service of process charges, deposition costs and witness fees that Warner/Chappell has asked the Clerk to tax but which the Clerk deems non-taxable.

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1 **3. CONCLUSION**

2 Warner/Chappell respectfully submits that its Motion is properly granted and
3 its non-taxable costs awarded.

4
5 Dated: July 7, 2016

/s/ Peter J. Anderson
Peter J. Anderson, Esq.
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	DEFENDANT WARNER/
vs.)	CHAPPELL MUSIC, INC.'S
)	MEMORANDUM OF POINTS AND
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8 appropriate. As a prevailing party, Warner/Chappell is presumably entitled to costs,
9 and its successful defense against plaintiff’s copyright claim furthered the purposes
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12 including expert witness fees, video deposition costs, trial transcript charges and
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14 process charges, deposition costs and witness fees that Warner/Chappell has
15 concurrently applied to the Clerk to tax, but which the Clerk deems non-taxable.

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27 allowable costs under section 505 include costs for service of process, depositions
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costs.” *Perfect 10, Inc. v. Giganews, Inc.*, No. CV 11-07098-AB SHX, 2015 WL 1746484, at *6 (C.D. Cal. Mar. 24, 2015) (compiling cases).

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- Coach airfare and hotel charges Warner/Chappell incurred for its counsel’s attendance at depositions outside this judicial district, totaling \$11,753.53.

See, attached Declaration at 4-7, ¶¶ 3-8, & Exhibits 1-5.

In addition, Warner/Chappell respectfully requests that the Court award under Section 505 any service of process charges, deposition costs and witness fees that Warner/Chappell has asked the Clerk to tax but which the Clerk deems non-taxable.

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1 **3. CONCLUSION**

2 Warner/Chappell respectfully submits that its Motion is properly granted and
3 its non-taxable costs awarded.

4
5 Dated: July 7, 2016

/s/ Peter J. Anderson
Peter J. Anderson, Esq.
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ENTERTAINMENT COMPANY and
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Tab 14

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MICHAEL SKIDMORE, <i>etc.</i> ,)	Case No. 2:15-cv-03462 RGK (AGRx)
)	
Plaintiff,)	
)	
vs.)	DEFENDANTS' OBJECTIONS TO
)	PLAINTIFF'S TRIAL CONDUCT
)	
LED ZEPPELIN, <i>et al.</i> ,)	
)	
Defendants.)	Courtroom of the Honorable
)	R. Gary Klausner
)	United States District Court

OBJECTIONS

Defendants James Patrick Page, Robert Plant, Warner/Chappell Music, Inc., Atlantic Recording Corporation and Rhino Entertainment Company object to the ongoing misconduct of plaintiff Michael Skidmore’s counsel which threatens, and has perhaps already caused, serious risk of prejudice to a fair and impartial determination in this case.

For example, Skidmore’s counsel has:

1. Repeatedly included in his questions, false and misleading assertions of fact in order to – as the Court has noted – “testify” rather than question witnesses, resulting in the Jury repeatedly hearing unproven and prejudicial assertions;
2. Repeatedly sought to elicit testimony that violated the Court’s rulings on defendants’ motions in limine, including, for example:
 - (a) eliciting incorrect or misleading testimony that the Trust was formed for charitable purposes and that the Ventura County School District is the beneficiary of the Trust;
 - (b) eliciting testimony from his economic expert as to payments under a 2008 agreement, in violation of the Court’s ruling that testimony as to payments under the 2008 agreement are precluded (Trial Transcript at 770:20-771:4, 771:13-773:18, 782:13-783:22);
3. Presented to the Jury an altered photograph from which two people were cropped out, to create the false impression that Mr. Plant was talking to plaintiff’s witness (*see*, Decl. *re* Pltf’s Altered Exh. 535, filed June 17, 2016); and
4. Repeatedly made public statements to the media for broadcast and which are contrary to the Court’s rulings on defendants’ motions in limine, are false or otherwise have a substantial likelihood of

1 materially prejudicing this trial (Skidmore's counsel's public
 2 statements to the press include, *e.g.*, that Dr. Ferrara was retained
 3 by Skidmore but, after being offered more money, "flipped" to
 4 represent defendants¹).

5 *See, e.g.*, Cal. R. Prof. Responsibility 5-200² & 5-120(A)³; L. R. 83-3.1.2 (adopting
 6 Cal. Rules of Professional Responsibility as the standards governing counsel's
 7 conduct in this Court).

8 Skidmore's counsel was previously and promptly cautioned that his conduct,
 9 among other things, violated the Rules of Professional Responsibility. *See*, Exh. 1
 10 attached hereto. However, with the commencement and throughout the trial, his
 11 misconduct has continued and increased, seriously threatening these proceedings and

12
 13 ¹

14 [http://mms.tveyes.com/Transcript.asp?StationID=780&DateTime=6%2F18%
 15 2F2016+1%3A11%3A21+AM&Term=Led+Zeppelin&PlayClip=TRUE](http://mms.tveyes.com/Transcript.asp?StationID=780&DateTime=6%2F18%2F2016+1%3A11%3A21+AM&Term=Led+Zeppelin&PlayClip=TRUE)
See, also Trial Transcript at 905:12-907:5.

16 ² Rule 5-200:

17 "In presenting a matter to a tribunal, a member:

18 "(A) Shall employ, for the purpose of maintaining the causes confided to the
 19 member such means only as are consistent with truth;

20 "(B) Shall not seek to mislead the judge, judicial officer, or jury by an artifice
 21 or false statement of fact or law;

22 "(C) Shall not intentionally misquote to a tribunal the language of a book,
 23 statute, or decision;

24 "(D) Shall not, knowing its invalidity, cite as authority a decision that has
 25 been overruled or a statute that has been repealed or declared unconstitutional; and

26 "(E) Shall not assert personal knowledge of the facts at issue, except when
 27 testifying as a witness."

28 ³ Rule 5-120(A):

"A member who is participating or has participated in the investigation or
 litigation of a matter shall not make an extrajudicial statement that a reasonable
 person would expect to be disseminated by means of public communication if the
 member knows or reasonably should know that it will have a substantial likelihood
 of materially prejudicing an adjudicative proceeding in the matter."

1 the administration of justice. And, given this conduct despite repeated admonitions
2 from the Court, it appears likely that the improper conduct of Skidmore's counsel
3 will likely continue into and including closing arguments.

4 Defendants object to Skidmore's counsel's conduct and ask that the Court
5 ensure these ongoing violations cease immediately and take all appropriate steps to
6 ensure that the Jury has not been affected by them.

7
8 Dated: June 20, 2016

9 /s/ Peter J. Anderson
10 Peter J. Anderson, Esq.
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12 A Professional Corporation
13 Attorney for Defendants
14 JAMES PATRICK PAGE, ROBERT
15 ANTHONY PLANT, JOHN PAUL JONES,
16 WARNER/CHAPPELL MUSIC, INC.,
17 SUPER HYPE PUBLISHING, INC.,
18 ATLANTIC RECORDING CORP., RHINO
19 ENTERTAINMENT COMPANY and
20 WARNER MUSIC GROUP CORP.

21 Helene M. Freeman, Esq.
22 PHILLIPS NIZER LLP
23 Attorney for Defendants
24 JAMES PATRICK PAGE,
25 ROBERT ANTHONY PLANT and
26 JOHN PAUL JONES
27
28

EXHIBIT 1

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May 6, 2016

By E-Mail & U.S. Mail

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Francis Alexander, LLC
280 N. Providence Road
Suite 1
Media, PA 19063

Glen L. Kulik, Esq.
Kulik Gottesman & Siegel LLP
15303 Ventura Boulevard
Suite 1400
Sherman Oaks, CA 91403

Re: *Led Zeppelin adv. Skidmore*

Dear Gentlemen:

I am writing regarding the following disturbing developments.

First, we have learned that immediately following the Court's Pretrial Conference last Monday, you made at least the following statements to the press on camera and in front of the Courthouse, and which were broadcast on local television and elsewhere:

MR. KULIK: If money is won in this case, it's to be used to buy musical instruments for children who are in need in Ventura County.

MR. MALOFIY: They can't hide behind counsel in the misty mountains over there in the UK.

The Court's Local Rule 83-3.1.2 requires that counsel be familiar with the California Rules of Professional Conduct and adopts those Rules as the standards governing counsel's conduct. And, California Rule of Professional Conduct 5-120(A) states:

"A member who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the member knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter."

While Mr. Malofiy is not a member of the California Bar, the Rule is applicable to him by reason of Local Rule 83-3.1.2.

Francis Malofiy, Esq.
Glen L. Kulik, Esq.
May 6, 2016
Page 2

Of course, in speaking to the press you knew your statements would “be disseminated by means of public communication . . .,” including to the potential jurors and their friends and relatives. You also know or should have known that the statements you made to the press on camera had “a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.”

Indeed, you had just left a hearing in which Judge Klausner advised us all that his intention was to grant defendants' motion to exclude all argument and evidence that the Trust would use any recovery in this case to buy musical instruments for children who are in need in Ventura County, California. Yet, minutes later Mr. Kulik made that exact same statement to the press, on camera, knowing and intending the prejudicial statement would be broadcast to the public. Aside from the issue of purposefully trying to frustrate Judge Klausner's ruling by doing an end run on him and going directly to the public, Mr. Kulik's statement is a clear violation of Rule 5-120.

Neither is there any doubt that Mr. Malofiy knew, or should have known, that accusing defendants of trying to hide in the United Kingdom and avoid trial is – especially when broadcast to a public that includes the potential juror pool and their friends and relatives – substantially likely to cause prejudice. Mr. Malofiy’s statement is also a violation of Rule 5-120.

Second, in direct violation of the December 28, 2015 Stipulated Protective Order in this action, plaintiff and you have publicly disclosed information that defendants designated “CONFIDENTIAL” under that Protective Order.

As you know, defendants designated as “CONFIDENTIAL” the 2008 Administration Agreement between WB Music and Flames of Albion. Ignoring the Court’s Protective Order, however, you included in plaintiff’s publicly-filed memorandum in opposition to defendants’ motion *in limine* no. 9, the 2008 Agreement’s primary financial terms, including the duration of the 2008 Agreement, the dollar amount of the advance paid under the 2008 Agreement and the timing of the advance payment. Plaintiff’s Memo. (Doc. 174) at 2:5-12, & at 2-4.

There can be no doubt that when you publicly disclosed this “CONFIDENTIAL” information you were very much aware that the information was subject to the Protective Order: as support for your disclosures you specifically cited to the copy of the 2008 Agreement that had been “filed under seal.” *Id.* at 2:9.

Further, we also have just learned that Mr. Malofiy apparently also made the same disclosures to at least some members of the press, who have publicly reported the advance amount paid under the 2008 Agreement designated "CONFIDENTIAL."

The Stipulated Protective Order provides, among other things, that the “violation of this Order may be punished by any and all appropriate measures including, without

Francis Malofiy, Esq.
Glen L. Kulik, Esq.
May 6, 2016
Page 3

limitation, contempt proceedings and/or monetary sanctions.” Stipulated Protective Order at 13, ¶ 14. In addition, the willful violation of the Court’s Protective Order is a breach of ethical obligations as lawyers and officers of the Court. *See, e.g.* Cal. Bus. & Prof. Code § 6103 (“A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension”).

Third, we also have learned that you disclosed to the press that in last Monday’s mediation plaintiff offered to settle on the basis of the payment of \$1 and a portion of the copyright in *Stairway to Heaven* and that the offer was rejected. In addition to being another violation of Rule 5-120, that disclosure breaches the Mediation and Confidentiality Agreement and violates the Court’s Local Rules.

In the Mediation Confidentiality Agreement, each of you and plaintiff agreed in writing that:

“Consistent with Central District of California Civil L.R. 16-15, General Order 11-10, related Federal Rules of Evidence and to the extent applicable, California Evidence Code Sections 703.5 and 1115-1128, the participants in mediation in the above-captioned case agree that:

- “1. No written or oral communication made by any party, attorney, mediator or other participant in a mediation in the above-named case may be used for any purpose in any pending or future proceeding unless all parties, including the mediator, so agree.”

See, also L.R. 16-15.8(a) (“all counsel and parties . . . shall treat as ‘confidential information’ . . . anything that happened or was said relating to the subject matter of the case in mediation, any position taken, ‘Confidential information’ shall not be . . . disclosed to anyone not involved in the litigation. . . .”).

These are each serious violations and we fully expect that you will not repeat them. However, defendants reserve all of their rights and remedies and, should these or any similar violations occur, defendants will proceed accordingly, including bringing the violations to the Court’s attention.

Very truly yours,

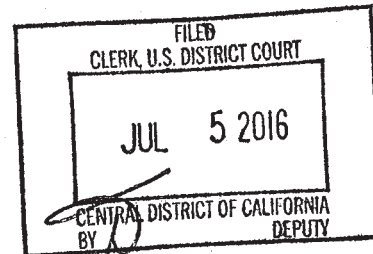


Peter J. Anderson

cc: Helene M. Freeman, Esq.

Tab 15

TUNE TO
JUNE 16, 2016



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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MICHAEL SKIDMORE, *etc.*,

Plaintiff,

vs.

LED ZEPPELIN, *et al.*,

Defendants.

Case No. 2:15-cv-03462 RGK (AGRx)

DECLARATION RE PLAINTIFF'S
ALTERED EXHIBIT 535

Courtroom of the Honorable
R. Gary Klausner
United States District Court

1 Defendants James Patrick Page, Robert Plant, Warner/Chappell Music, Inc.,
2 Atlantic Recording Corporation and Rhino Entertainment Company submit the
3 attached Declaration regarding a photograph that plaintiff published before the Jury
4 on June 15, 2016, and which is an altered version of the photograph that plaintiff
5 produced to defendants on June 9, 2016.

6 In support of plaintiff's contention that Mr. Plant and Mark Andes had a close
7 personal relationship, plaintiff's counsel published – before receiving permission – a
8 photograph that purports to depict Mr. Plant speaking to Mr. Andes in the 1980s, in
9 the company of Ann Wilson and Nancy Wilson of the group Heart. However, that
10 photograph is cropped to omit two additional people, including the person to whom
11 Mr. Plant was actually talking. Compare attached Exh. 1 & 2.

12 Plaintiff has strived to create the false impression of a close relationship
13 between Mr. Plant and Mr. Andes, even to the extent of altering a photograph.
14 Further, the doctored photograph was published for the Jury to see on large
15 television screens a clear – and false – image of Mr. Plant speaking to Mr. Andes
16 when, instead, he was speaking to one of the of two other men edited out of the
17 photograph.

18 Defendants respectfully submit that, aside from whatever sanctions the Court
19 deems appropriate, a curative instruction to the Jury is required to ameliorate the
20 prejudice plaintiff has caused. Specifically, defendants request that the Court
21 explain to the Jury that the photograph plaintiff's counsel displayed is a cropped
22 version of the actual photograph; that the Court provide to the Jury the cropped
23 photograph and the actual photograph; and that the Court instruct the Jury that it
24 may draw whatever inference it deems appropriate from plaintiff's submission of a

25 ///


26 ///

27 ///

28 ///

1 photograph that was doctored to create the false impression that Mr. Plant was
2 speaking to Mr. Andes.

3
4 Dated: June 16, 2016


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A Professional Corporation
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ANTHONY PLANT, JOHN PAUL JONES,
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Helene M. Freeman, Esq.
PHILLIPS NIZER LLP
Attorney for Defendants
JAMES PATRICK PAGE,
ROBERT ANTHONY PLANT and
JOHN PAUL JONES

DECLARATION OF PETER J. ANDERSON

I, Peter J. Anderson, declare and state:

1. I am an attorney admitted to practice before this Court and all Courts of the State of California. I have personal knowledge of the following facts and could competently testify to these facts if called upon to do so.

2. I represent defendants James Patrick Page, Robert Plant, Warner/Chappell Music, Inc., Atlantic Recording Corp. and Rhino Entertainment Company in this action. This Declaration is submitted in connection with their response to plaintiff's publication of an altered photograph at the second day of trial in this action.

3. On June 9, 2016, I received an e-mail from plaintiff's counsel, Glen Kulik, stating that "we just received the attached photo which we will use at the time of trial." Attached to this Declaration as Exhibit 1 is a true and correct copy of Mr. Kulik's June 9, 2016 e-mail and the attachment to that e-mail, namely a photograph of six individuals, and showing Mr. Plant talking to the male on the far right.

4. On June 14, 2016 and during the first day of trial in this action, plaintiff's counsel, Francis Malofiy, handed me a hard drive with 1,498 electronic files in it. He did not tell me that the hard drive had any new or different exhibits.

5. On June 15, 2016 and during plaintiff's examination of Mark Andes, and without waiting for defense counsel to state whether they objected, Mr. Malofiy published as an exhibit the same photograph produced by Mr. Kulik, but which was cropped to omit two males on the far right, creating the false impression that Mr. Plant was speaking to the only other male left in the photograph, and who Mr. Malofiy indicated was Mr. Andes. Attached as Exhibit 2 to this Declaration is a copy of the altered photograph and which I have now confirmed was included among the 1,498 electronic files Mr. Malofiy provided on a hard drive on June 14, 2016.

///

1 6. Just before or upon publishing the altered photograph for the Jury to
2 see, Mr. Malofiy stated something to the effect that the photograph confirmed the
3 personal relationship supposedly existing between Mr. Plant and Mr. Andes.

4 7. Plaintiff's altered photograph was visible to the Jury on the Courtroom
5 monitors. I stood and objected to the photograph as soon as Ms. Freeman and I
6 realized it was different from the one that Mr. Kulik had produced, and the
7 photograph remained on the Courtroom monitors long enough for me to object and
8 state the grounds for the objection, and for Mr. Malofiy to walk from the lectern,
9 around the Courtroom's audiovisual equipment and defendants' trial technician and,
10 standing near me, state that my objection was ridiculous and question the grounds of
11 my objection.

12 I declare under penalty of perjury that the foregoing is true and correct.
13 Executed on June 16, 2016.

14
15 

16 _____
PETER J. ANDERSON

EXHIBIT 1

From: Glen Kulik
To: Peter J. Anderson; hfreeman@phillipsnizer.com
Cc: Francis Alexander Malofiy (francis@francisalexander.com)
Subject: FW: photo
Date: Thursday, June 09, 2016 6:43:50 PM
Attachments: MARK ANDES - 3460358.jpg

Peter, we just received the attached photo which we will use at the time of trial.

Glen L. Kulik, Esq.
KULIK GOTTESMAN SIEGEL & WARE LLP
15303 Ventura Boulevard, Suite 1400
Sherman Oaks, California 91403
(310) 557-9200 Main
(310) 557-0224 Fax

EXHIBIT 1

5



EXHIBIT 1

6

EXHIBIT 2



Bettyimages
Hulton Archive

EXHIBIT 2

7

British musician Robert Fripp visits members of the rock group Beatnik after their performance in Milton Keynes, England, circa 1980s. (L-R) Alan Wootton, Rod Carmassi and Howard Leese talk on the... 1979

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2
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535-0001

Tab 16

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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SKIDMORE, as Trustee for
the RANDY CRAIG WOLFE TRUST,

Plaintiff,

v.

LED ZEPPELIN; JAMES PATRICK
PAGE; ROBERT ANTHONY PLANT;
JOHN PAUL JONES; SUPER HYPE
PUBLISHING, INC.; WARNER MUSIC
GROUP CORP., Parent of
WARNER/CHAPPELL MUSIC, INC.;
ATLANTIC RECORDING
CORPORATION; RHINO
ENTERTAINMENT COMPANY,

Defendants.

Case No. 15-cv-03462 RGK (AGRx)

Hon. R. Gary Klausner

**PLAINTIFF SUPPLEMENTAL
EXHIBIT LIST**

TRIAL: JUNE 14, 2016

TIME: 9:00 A.M.

		Objections	Date Id.	Date Adm.
	Description			
	<u>AUDIO EXHIBITS</u>			
1A	Audio Exhibit 1: Dazed and Confused by Led Zeppelin (1969)[207A]	Defs: general objection, as to the entire Joint Exhibit List, that plaintiff has insisted upon the inclusion of material not properly or reasonably considered an exhibit for trial, has failed to identify what documents or recordings he is referring to, and has otherwise not cooperated in the preparation of a proper Joint Exhibit List. As to this specific exhibit: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
2A	Audio Exhibit 2: Dazed and Confused by Jake Holmes (1967)[208A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
3A	Audio Exhibit 3: Whole Lotta Love by Led Zeppelin (1969)[409A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
4A	Audio Exhibit 4: Muddy Waters' You Need Love (1962)(10 seconds – 28 seconds)[209A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
5A	Audio Exhibit 5: The Small Faces' You Need Loving (1966)(25 seconds – 48 seconds)[210A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
6A	Audio Exhibit 6: Live performance of Led Zeppelin			

	playing Fresh Garbage (1-10-1969)[206A]			
7A	Audio Exhibit 7: Stairway to Heaven (0 seconds – 25 seconds)	Defs: failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
8A	Audio Exhibit 8: Taurus (45 seconds – 1 minute, 13 seconds)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002.		
9A	Audio Exhibit 9: 8 measures of Stairway from note 1 of the acoustic guitar, repeated multiple times [42A]	Defs: failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
10A	Audio Exhibit 10: 8 Measures of Taurus from note 1 of the acoustic guitar, repeated multiple times [43A]	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
11A	Audio Exhibit 11: 8 measures of Stairway and Taurus played together from note 1 of the acoustic guitar, repeated multiple times [44A]	Defs: as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4), entire, officially release version is relevant work.		
	<u>AUDIO EXHIBITS</u> –			

	<u>COMPRASION AUDIO</u>			
12A	Audio Exhibit 12:Acoustic Guitar	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
13A	Audio Exhibit 13:Bass	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
14A	Audio Exhibit 14:Drums	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		

15A	Audio Exhibit 15: Electric 12 Strings	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
16A	Audio Exhibit 16: Electric Piano	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
17A	Audio Exhibit 17: End Guitar	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
18A	Audio Exhibit 18:Les Pauls	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4,		

		failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
19A	Audio Exhibit 19: Recorders	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
20A	Audio Exhibit 20: Slide	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
21A	Audio Exhibit 21: Solo	Defs: failure to identify audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
	<u>AUDIO EXHIBITS – RE-RECORDING OF TAURUS</u>			

22A	Audio Exhibit 22: Acoustic Guitar	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
23A	Audio Exhibit 23: Cello 1	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
24A	Audio Exhibit 24: Cello 2	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
25A	Audio Exhibit 25: Cymbal	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
26A	Audio Exhibit 26: Flute	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
27A	Audio Exhibit 27: Harpsichord	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
28A	Audio Exhibit 28: String Bass	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
29A	Audio Exhibit 29: Viola	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
30A	Audio Exhibit 30: Violins	Defs: Defs MIL # 3, # 4, FRE 401-02, 403, 1002.		
	<u>AUDIO EXHIBITS – ALEXANDER STEWART</u>			
31A	Audio Exhibit 31: “Stairway to Heaven” (album)			
32A	Audio Exhibit 32: “Taurus” (album)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002.		
33A	Audio Exhibit 33: Taurus Live at Ash Grove (7/10/1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
34A	Audio Exhibit 34: Taurus Live at Ash Grove (7/31/1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
35A	Audio Exhibit 35: Taurus Live at Ash Grove (8/8/1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
36A	Audio Exhibit 36: Taurus Demo	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		

	Recording (8/1967)			
37A	Audio Exhibit 37: Taurus Live at Kaleidoscope (4/5/1968)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
38A	Audio Exhibit 38: Taurus Live at The Time Coast	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
39A	Audio Exhibit 39: Taurus Live at Acoustic (1996)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
40A	Audio Exhibit 40: Combination – Acoustic Taurus Synced to STH SR – Part A, played over	Defs: Defs MIL # 3, #4, FRE 401- 02, 403, 1002, 802.		
	Master SR of STH			
41A	Audio Exhibit 41: Acoustic Taurus Synced to Master SR of STH – Part A	Defs: Defs MIL # 3, #4, FRE 401- 02, 403, 1002.		
42A	Audio Exhibit 42: Stairway Acoustic – Part A [9A]	Defs: Defs MIL #4, FRE 401-02, 403, 1002.		
43A	Audio Exhibit 43: Taurus Acoustic – Part A [10A]	Defs: Defs MIL # 3, #4, FRE 401- 02, 403, 1002.		
44A	Audio Exhibit 44: Combination – Acoustic Taurus Synced to Master SR of STH (Part A), played over Acoustic	Defs: Defs MIL # 3, #4, FRE 401- 02, 403, 1002.		

	Stairway (Part A) [11A]			
	<u>AUDIO EXHIBITS – REBUTTAL OF MATHES</u>			
45A	Audio Exhibit 45: Mathes Audio Exhibit Tempo Matched - Stairway	Defs: failure to identify and produce audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
46A	Audio Exhibit 46: Mathes Audio Exhibit Tempo Matched - Taurus	Defs: failure to identify and produce audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
47A	Audio Exhibit 47: Mathes Audio Exhibit Tempo Matched - STH & Taurus	Defs: failure to identify and produce audio exhibit and what works recorded; as to Taurus, Defs MIL # 3, # 4, FRE 401-02, 403, 1002; as to Stairway, failure to identify whether refers to officially released version or plaintiff's recreated versions, which are irrelevant, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4); entire, officially release version is relevant work.		
51A	Audio Exhibit 51: Taurus Deposit Copy			

	(by Mathes)			
52A	Audio Exhibit 52: Taurus Recording (by Mathes)	Defs: failure to identify and produce audio exhibit (Mathes provided only one audio recording of Taurus deposit copy, listed above); FRE 401-02, 403, 1002, & lack foundation, MIL# 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4) .		
53A	Audio Exhibit 53: Combined - Taurus Deposit Copy and Taurus Recording (by Mathes)	Defs: failure to identify and produce audio exhibit (Mathes provided only one audio recording of Taurus deposit copy, listed above); FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
54A	Audio Exhibit 54: Stairway to Heaven (by Mathes)	Defs: failure to identify and produce audio exhibit (description does not match audio recordings provided by Mathes); to the extent plaintiff refers to another of plaintiff's audio recordings, failure to identify and produce audio exhibit, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
55A	Audio Exhibit 55: Combined - Taurus Deposit Copy and Stairway to Heaven (by Mathes)	Defs: failure to identify and produce audio exhibit (description does not match audio recordings provided by Mathes); to the extent plaintiff refers to another of plaintiff's audio recordings, failure to identify and produce audio exhibit, FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
56A	Audio Exhibit 56: Combined - Taurus Recording and Stairway to Heaven (by Mathes)	Defs: failure to identify and produce audio exhibit (Mathes provided only one audio recording of Taurus deposit copy, listed above); FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
57A	Audio Exhibit 57: Combined –	Defs: failure to identify and produce audio exhibit (Mathes provided only		

	Taurus Deposit Copy and Taurus Recording and Stairway to Heaven (by Mathes)	one audio recording of Taurus deposit copy, listed above); FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
	VIDEO EXHIBITIS – DEMONSTRATIVE GUITAR PERFORMANCE			
58A	STH Composition (Hanson)			
58.1A	T Deposit - Bass Clef (Hanson)			
58.2A	T Deposit - Bass Clef - STH Composition (Hanson)			
58.3A	T Deposit - Treble Clef (Hanson)			
58.4A	T Deposit - Treble Clef - STH Composition (Hanson)			
58.5A	T Deposit - Bass Clef - Treble Clef (Hanson)			
58.6A	T Deposit - Bass Clef - Treble Clef - STH Composition (Hanson)			
58.7A	T Deposit - Bass Clef Arpeggio(Hanson)			

58.8A	T Deposit - Bass Clef Arpeggio - STH Composition (Hanson)			
59A	T Deposit - Bass Clef Arpeggio - Treble Clef			
59.1A	T Deposit - Bass Clef Arpeggio - Treble Clef - STH Composition (Hanson)			
59.2A	T Composition (Hanson)			
59.3A	T Composition - T Deposit - Bass Clef (Hanson)			
59.4A	T Composition - T Deposit - Treble Clef (Hanson)			
59.5A	T Composition - STH Composition (Hanson)			
59.6A	T Composition - STH Composition - T Deposit - Bass Clef (Hanson)			
59.7A	T Composition - STH Composition - T Deposit - Treble Clef (Hanson)			
59.8A	T Composition - STH Composition - T Deposit - Bass Clef -			

	Treble Clef (Hanson)			
61A	Audio Exhibit 61: Taurus Deposit Copy (by Ferrara)			
62A	Audio Exhibit 62: Taurus Recording (by Ferrara)	Defs: failure to identify and produce audio exhibit (Ferrara provided only one audio recording of Taurus deposit copy, listed above); FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
63A	Audio Exhibit 63: Combined - Taurus Deposit Copy and Taurus Recording (by Ferrara)	Defs: failure to identify and produce audio exhibit (Ferrara provided only one audio recording of Taurus deposit copy, listed above); FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
64A	Audio Exhibit 64: Stairway to Heaven (by Ferrara)			
65A	Audio Exhibit 65: Combined – Taurus Deposit Copy and Stairway to Heaven (by Ferrara)	Defs: failure to identify and produce audio exhibit (description does not match audio recordings provided by Ferrara); to the extent plaintiff refers to another of plaintiff's audio recordings, failure to identify and produce audio exhibit, FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
66A	Audio Exhibit 66: Combined - Taurus Recording and Stairway to Heaven (by Ferrara)	Defs: failure to identify and produce audio exhibit (description does not match audio recordings provided by Ferrara); to the extent plaintiff refers to another of plaintiff's audio recordings, failure to identify and produce audio exhibit, FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		

67A	Audio Exhibit 67: Combined – Taurus Deposit Copy and Taurus Recording and Stairway to Heaven (by Ferrara)	Defs: failure to identify and produce audio exhibit (description does not match audio recordings provided by Ferrara); to the extent plaintiff refers to another of plaintiff’s audio recordings, failure to identify and produce audio exhibit, FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
70A	Combination: Taurus Deposit Copy (Mathes) Stairway to Heaven Deposit Copy (Hanson)	Def: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
71A	Audio Exhibit 71: Taurus Deposit Copy (by Hanson)	Def: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
72A	Audio Exhibit 72: Taurus Recording (by Hanson)	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL # 3 & #4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
73A	Audio Exhibit 73: Combined - Taurus Deposit Copy and Taurus Recording (by Hanson)	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
74A	Audio Exhibit 74: Stairway to Heaven (by Hanson)	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
75A	Audio Exhibit 75: Combined - Taurus Deposit Copy and Stairway to Heaven (by Hanson)	Defs: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
76A	Audio Exhibit 76: Combined – Taurus	Defs: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack		

	Recording and Stairway to Heaven (by Hanson)	foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
77A	Audio Exhibit 77: Combined – Taurus Deposit Copy and Taurus Recording and Stairway to Heaven (by Hanson)	Defs: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
78A	Stairway to Heaven Rerecording Mix (Audio Exhibits 12-21)	Def: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack foundation, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
79A	Taurus Rerecording Mix (Audio Exhibits 22-30)	Def: such a recording has never been produced to defendants; FRE 401-02, 403, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
	<u>DEPOSITION</u> <u>S</u>			
80	Deposition of Jimmy Page (01.07.2016)(Transcript) [Page]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
80D	Designation of Jimmy Page			
80M	Deposition of Jimmy Page (01.07.2016) (Mini) [Page]			
80V	Deposition of Jimmy Page (01.07.2016)(VIDEO)[Page]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply		

		with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
81	Deposition of John Paul Jones (01.08.2016) (Transcript)[Jones]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
81V	Deposition of John Paul Jones(01.08.2016)(VIDE)[Jones]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
82	Deposition of Jay Ferguson (01.13.2016)(Transcript)[Ferguson]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
82V	Deposition of Jay Ferguson (01.13.2016)(VIDEO)[Ferguson]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
83	Deposition of Mark Andes (01.15.2016)(Transcript)[Andes]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use		

		of deposition.		
83V	Deposition of Mark Andes (01.15.2016)(VI DEO)[Andes]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
84	Deposition of Bruce Pates (01.22.2016)(Transcript)[Pates]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
85	Deposition of Robert Plant (01.29.2016)(Transcript)[Plant]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
85V	Deposition of Robert Plant (01.29.2016)(VI DEO)[Plant]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 12, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		

86	Deposition of Michael Skidmore (02.05.2016)(Transcript)[Skidmore]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 407, 408, 701, 802 and 805, & within MIL # 1, 2, 3, 5, 11, 14; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
87	Deposition of William Ruhlmann (02.08.2016)(Transcript)[Ruhlmann]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 802 and 805, & within MIL # 1; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
87A	Ruhlmann Interview Cassettes (Audio)	Defs: contains material inadmissible under FRE 401-02, 403, 404, 407, 408, 701, 802 and 805, & within MIL # 1, 5.		
87AT	Ruhlmann Interview Cassettes (Transcript)			
88	Deposition of Jeremy Blietz (02.09.2016)(Transcript)[Blietz]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 802 and 805; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
89	Deposition of David Woirhaye (02.10.2016)(Transcript)[Woirhaye]	Defs: a deposition is not an exhibit; contains material inadmissible under FRE 401-02, 403, 802 and 805; failure to comply with LR 16-2.7 and, as a result, deprives defendants of opportunity to object to proffered testimony; improper use of deposition.		
90	Deposition of Alexander Stewart (2016.05.17)(Transcript)[Stewart]			

90V	Deposition of Alexander Stewart (2016.05.17) (VIDEO) [Stewart]			
91	Deposition of Erik Johnson (2016.05.18) (Transcript) [Johnson]			
91V	Deposition of Erik Johnson (2016.05.18) (VIDEO) [Johnson]			
92	Deposition of Kevin Hanson (2016.05.18) (Transcript) [Hanson]			
92V	Deposition of Kevin Hanson (2016.05.18) (VIDEO) [Hanson]			
93	Deposition of Brian Bricklin (2016.06.10) (Transcript) [Bricklin]			
93V	Deposition of Brian Bricklin (2016.06.10) (Video) [Bricklin]			
94	Deposition of Michael Einhorn (2016.05.19) (Transcript) [Einhorn]			
94V	Deposition of Michael Einhorn (2016.05.19) (VIDEO) [Einhorn]			

95	Deposition of Robert Mathes (2016.05.27) (Transcript) [Mathes]			
95V	Deposition of Robert Mathes (2016.05.27) (VIDEO) [Mathes]			
96	Deposition of Lawrence Ferrara (2016.05.27) (Transcript) [Ferrara]			
96V	Deposition of Lawrence Ferrara (2016.05.27) (VIDEO) [Ferrara]			
97	Deposition of Michael Ware (2016.05.31) (Transcript) [Ware]			
97V	Deposition of Michael Ware (2016.05.31) (VIDEO) [Ware]			
98	New Musical Express Article [Page][D98]	Defs: Defs MIL # 2 & # 5, FRE 401- 02, 403, 404, 407, 408, 802, 805.		
99V	BBC Interview with Jimmy Page (minutes 1:13 to1:25)[VIDEO][Page]	Defs: reserve right to play other portions of the interview.		
99T	Transcript of BBC Interview with Jimmy Page			

100A	Taurus and Stairway to Heaven Sound Recording Mash Up	Def: such a recording has never been produced to defendants; mash-ups are inherently misleading and not an accepted musicological practice and is, instead, a musical trick; <i>Cottrill v. Spears</i> , 2003 WL 21223846 at *9 (E.D. Pa. May 22, 2003); FRE 401- 02, 403, 702, 1002, & lack foundation, MIL # 3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
101	Plaintiff's Amended complaint	Defs: Defs MIL # 1, # 2, # 3, # 5, # 8, #14; FRE 401-02, 403, 404, 407, 408, 701-05, 802 & 805; assertions as to substantial similarity barred by failure to timely provide expert disclosures as to relevant work (1967 transcription), FRCP 26(a), 26(e) & 37(c)(1).		
103	Recorder	Defs: FRE 401-02, 403.		
104	Headley Grange layout Drawing [Page]			
104A	Headley Drawing with Robert's Drawing [Plant]			
105	Stairway to Heaven Sheet Music (Flames of Albion Music 1972)[Page]			
106	Howard Mylett Article [Page]	Defs: FRE 901, illegible, 401-02, 403, 802, 805.		
107A	Take 1 – Stairway to Heaven [AUDIO][Page] [D107]			
108A	Take 2 – Stairway to Heaven [AUDIO][Page] [D108]			
109A	Take 3 - Stairway to			

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	Heaven [AUDIO][Page] [D109]			
110A	Take 4 - Stairway to Heaven [AUDIO][Page] [D110]			
111A	Take 5 - Stairway to Heaven [AUDIO][Page] [D111]			
112A	Take 6 - Stairway to Heaven [AUDIO][Page] [D112]			
113A	Take 7 - Stairway to Heaven [AUDIO][Page] [D113]			
114A	Take 8 - Stairway to Heaven [AUDIO][Page] [D114]			
146	Plant Crash Article[Page][J ones][D146]			
157	Zig Zag reprinted in Guitar World Interview with Jimmy Page [Page][D157]	Defs: Defs MIL # 2, FRE 401-02, 403, 802, 805.		
160	Zig Zag reprinted in Guitar World Interview with Jimmy Page [Page][D157]	Defs: either duplicative of Exh. 157 or not produced; Defs MIL # 2, FRE 401-02, 403, 802, 805.		
160A	Zig Zag Interview with Jimmy Page [AUDIO][Page]			

	[D160]			
160T	Transcript of Zig Zag Interview with Jimmy Page			
161A	Master Sound Recording of Stairway to Heaven [AUDIO][Page]	Defs: failure to identify recording plaintiff is referring to.		
162A	Master Sound Recording of Taurus – Part A[AUDIO][Page]	Defs: Defs MIL # 3, #4, FRE 401- 02, 403, 1002.		
163A	Combination – Acoustic Recording of Taurus Synced Master Sound Recording of Stairway to Heaven (by session musician), played over Master Sound Recording of Stairway to Heaven [AUDIO][Page]	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL #3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
164A	Acoustic Recording of Taurus (by session musician) Synced to Master of Stairway to Heaven Sound Recording [AUDIO][Page]	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL #3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
165A	Acoustic Recording of Stairway to Heaven (by	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, MIL # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		

	session musician) [AUDIO][Page]			
166A	Acoustic Recording of Taurus (by session musician) Synced Exactly to Master Sound Recording of Taurus – Part A [AUDIO][Page]	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL #3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
167A	Combination – Acoustic Recording of Taurus Synced to Master Sound Recording of Stairway to Heaven (by session musician), played over Acoustic Recording of Stairway to Heaven (by session musician) [AUDIO] [Page]	Def: failure to identify and produce recording; FRE 401-02, 403, 1002, & lack foundation, MIL #3, # 4, failure to comply with FRCP 26(a)(2), (e) & (b)(4).		
200	Book - Get the Led Out by Denny Somach (p.19)[Page]	Defs: Defs MIL #2, # 3, # 5, # 6, FRE 901, 401-02, 403, 404, 407, 408, 802, 805.		
201	Recorder (as played by Jones)[Jones]	Defs: FRE 401-02.		
202	Hohner Piano (as played by Jones) [Jones]	Defs: FRE 401-02.		
203	Photos of Led Zeppelin II Album Covers and Vinyl	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		

	(Original)[Jones]			
204	Photos of Led Zeppelin II Album Covers and Vinyl (Remastered)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
205A	Spirit's Fresh Garbage Performance (Feb. 3, 1970)(7:58) [AUDIO][Jones]	Defs: FRE 901, 401-02, 403; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
206A	Led Zeppelin Playing Fresh Garbage (2:51) [AUDIO][Jones][6A]	Defs: FRE 901, 401-02, 403; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
207A	Dazed and Confused (Led Zeppelin)(1969) [AUDIO][Jones][1A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
208A	Dazed and Confused (Jake Holmes)(1967)[AUDIO][Jones][2A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
209A	You Need Love (Muddy Waters)(1962)[AUDIO][Jones][4A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
210A	You Need Loving (The Small Faces)(1966)[AUDIO][Jones][5 A]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
211A	Babe I'm Gonna Leave You (Joan Baez/Anne Bredon)(1962)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		

212A	Bring It On Home (Sonny Boy Williamson II)[AUDIO][Jo nes]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
213A	Never (Moby Grape)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
214A	Hat's Off to Roy Harper (Led Zeppelin)[AUD IO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
215A	Shake 'em on Down (Bukka White)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
216A	Nobody's Fault but Mine (Blind Willie Johnson)[AUDI O][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
217A	Bron-Y-Aur Stomp (Led Zeppelin)[AUD IO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
218A	Waggoner's Lad (Bert Jansch)(1966)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
219A	Black Waterside (Bert Jansch)(1966)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
220A	White Summer/Black Mountain Side (LedZeppelin)(1969) [AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		

221A	Howlin' Wolf – Killing Floor (1964)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
222A	Traveling Riverside Blues (Robert Johnson)(1937)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
223A	The Lemon Song (Led Zeppelin)(first three seconds)(1969)[AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
224A	Jesus Make Up My Dying Bed (aka In My Time of Dying) (Blind Willie Johnson) (1927) (misidentified as Jesus Gonna Make Up My Dying Bed) [AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
225A	Jesus Gonna Make Up My Dying Bed (Josh White) (misidentified as Jesus Make Up My Dying Bed (aka In My Time of Dying))(1933) [AUDIO][Jones]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
226A	How Many More Times (Led Zeppelin)(1969) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		

227A	No Place to Go (aka How Many More Years)(Howlin' Wolf)(1959)[A UDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
228A	Rosie (Alexis Korner Blues Inc.)(1967) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
229A	Steal Away (Alexis Korner Blues Inc. & Robert Plant)(1968)[A UDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
230A	The Hunter (Albert King)(1967) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
231A	Bring it on Home (Led Zeppelin)(1969) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
232A	When the Levee Breaks Breaks (Led Zeppelin)(1971) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
233A	When the Levee Breaks (Memphis Minnie & Kansas Joe McCoy)(1929)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
234A	Custard Pie (Led Zeppelin)(1975) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
235A	Drop Down Mama (Sleepy John Estes)(1935)[A	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e),		

	UDIO]	37(c)(1).		
236A	Want Some of Your Pie (Blind Boy Fuller)(1940)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
237A	In My Time of Dying Bed (Led Zeppelin)(1975) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
238A	Boogie with Stu (Led Zeppelin)(1975) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
239A	Ooh, My Head (Ritchie Valens)(1957)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
240A	Nobody's Fault but Mine (Led Zeppelin)(1976) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
241A	White Summer (Yardbirds)(1969)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
242A	She Moved Thro' the Fair (Davy Graham)(1963)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
243A	The Girl I Love She Got Long Black Wavy Hair (Led Zeppelin)(1969) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		

244A	The Girl I Love She Got Long Curly Hair (Sleepy John Estes)(1927)[A UDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
245A	Watch Your Step (Bobby Parker)(1961)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
246A	Your Time is Gonna Come (Led Zeppelin)(1969) [AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
247A	Dear Mr. Fantasy (Traffic)(1967)[AUDIO]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
250	Lyrics and Musical Comparison of Prior Art and Led Zeppelin Songs	Defs: such a recording has never been produced to defendants, FRCP 26(a), 37(c)(1); Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/ provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
300	Spirit Show History [Ferguson]	Defs: FRE 901, 602, 802, 805.		
301	Spirit Gig Listing [Ferguson]	Defs: FRE 901, 602, 802, 805.		
302	Spirit CD - Topanga (69)[Ferguson]			
302A	Spirit CD - Topanga (69) [AUDIO][Fergu son]			
303	Spirit CD - Valley Music Theatre (12/31/1970)(Di sc One)[Ferguson]			

303A	Spirit CD - Valley Music Theatre (12/31/1970)(Di scOne)[AUDIO] [Ferguson]			
304	Spirit CD - Valley Music Theatre (12/31/1970)(Di sc Two)[Ferguson]			
304A	Spirit CD - Valley Music Theatre (12/31/1970)(Di scTwo)[AUDIO] [Ferguson]			
305	Poster – Northern California Folk- Rock Festival [Ferguson]	Defs: FRE 901, 802, 401-02, 602.		
306	Spirit CD - The Forum (12/12/1970)[Fe rguson]			
306A	Spirit CD - The Forum (12/12/1970) [AUDIO] [Ferguson]			
307	Spirit CD - Mammoth Gardens (6/5/1970)[Ferg uson]			
307A	Spirit CD - Mammoth Gardens (6/5/1970)[AU DIO][Ferguson]			
308	Spirit CD - Cincinnati, Ohio (Unknown venue)(Late 1970)[Ferguson]			

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308A	Spirit CD - Cincinnati, Ohio (Unknown venue)(Late 1970)[AUDIO][Ferguson]			
309	Spirit CD - Whisky A Go Go (11/1/1970)[Fer guson]			
309A	Spirit CD - Whisky A Go Go (11/1/1970)[AU DIO][Ferguson]			
310	Spirit CD - Mammoth Gardens (2/1/1969)[Ferg uson]			
310A	Spirit CD - Mammoth Gardens (2/1/1969)[AU DIO][Ferguson]			
311	Spirit CD - Civic Center (Baltimore, MD)(10/3/1969) [Ferguson]			
311A	Spirit CD - Civic Center (Baltimore, MD) (10/3/1969) [AUDIO][Fergu son]			
312	Spirit CD - Center Arena (Seattle, WA)(5/22/1970) [Ferguson]			
312A	Spirit CD - Center Arena (Seattle, WA)(5/22/1970)			

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	[AUDIO][Ferguson]			
313	“Rock Concert is Real Groovy – Rocky Mountain News Music Critic [Ferguson][D136]			
314	“Atlanta Pop- ‘Greatest Musical Fair Ever’” – The Hurricane (7/11/1969)[Ferguson][D202]			
315	Atlanta Pop Festival Announcement [Ferguson][D125]	Defs: FRE 802.		
316	Seattle Pop Festival Poster [Ferguson][D136]	Defs: FRE 802.		
317	Sylvan Rock Flows Smoothly – Seattle Post Intelligencer (7/29/1969)[Ferguson][D117]			
318	Seattle Pop Festival Poster [Ferguson]	Defs: FRE 802.		
319	Texas International Pop Festival Poster and News Articles [Ferguson]	Defs: FRE 802.		
320	Spirit Poster for (12/26/1967)[Ferguson]			
321	Robert Plant Crash Article – Melody Maker (2/7/1970)			

	[Ferguson][D146]			
322	Poster for Spirit Concert w/ Mandrake – Hornsey Town Hall [Ferguson]	Defs: FRE 901, 802, 401-02.		
323	Spirit Article - Shindig! (2009)[Ferguson]	Defs: FRE 802, 401-02, 403.		
324	“And She’s Buying a Lawsuit to Heaven” – Blog Post [Ferguson]	Defs: MIL # 3, FRE 901, 802, 401-02, 403,		
325	Wikipedia Article on How Many More Times [Ferguson]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
326	Wikipedia Article on White Summer [Ferguson]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
327	“Spirit, Procol Play Concerts” in LA Times (4/17/1969)[Ferguson]	Defs: FRE 802, 401-02, 403, as to Internet posting re lawsuit, claims, Defs MIL # 2, # 3, 5.		
328	News Articles from Bruce Pates [Ferguson]	Defs: FRE 802, 401-02, 403.		
329	Seattle Pop Festival Poster [Ferguson]	Defs: FRE 901, 802.		
330	Sounds Like Teen Spirit by Timothy English [Ferguson]	Defs: Defs MIL # 2, # 5, FRE 407, 408, 401-02, 403, 404, 802.		
331	Skidmore Emails to Jay Ferguson (8/28/2015)[Ferguson]	Defs: Defs MIL # 5, FRE 401-02, 403, 404, 802.		

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332	Skidmore Emails to Jay Ferguson (5/29/2015)[Ferguson]	Defs: Defs MIL # 5, FRE 401-02, 403, 404, 802.		
333	Spirit Demo Cassette [Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 404, 1002, 802.		
333A	Spirit Demo Cassette [AUDIO][Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 404, 1002, 802.		
334	Spirit Cassette - Whiskey A Go Go Show [Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
334A	Spirit Cassette - Whiskey A Go Go Show [AUDIO][Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
335	Spirit Cassettes - Filmore West and Boston [Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
335A	Spirit Cassettes - Filmore West and Boston [AUDIO][Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
336	Spirit Cassettes - Filmore West [Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
336A	Spirit Cassettes - Filmore West [AUDIO][Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
337	Cassette – As Long As I have You [Ferguson]	Defs: FRE 401-02, 403, 1002, 802.		
337A	Cassette – As Long As I have You [AUDIO][Ferguson]	Defs: FRE 401-02, 403, 1002, 802.		
338	Time Circle	Defs: Defs MIL # 3, FRE 401-02,		

	(Spirit)(Disc 1)[Ferguson]	403, 1002.		
338A	Time Circle (Spirit)(Disc 1) [AUDIO][Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
338.2	Time Circle (Spirit)(Disc 2)[Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
338.2A	Time Circle (Spirit)(Disc 2) [AUDIO][Ferguson]	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802.		
339	Time Circle Notes [Ferguson][D137]	Defs: Defs. MIL # 3, FRE 802, 805.		
340	All for One Contract [Ferguson]	Defs: FRE 401-02, 403.		
341	Letter Canceling "All For One" Contract [Ferguson]	Defs: FRE 401-02, 403.		
342	Subpoena to Jay Ferguson [Ferguson]			
343	CD Jay Ferguson Interview with Bruce Pates Summerland, CA (June 28, 2000) [Transcript]	Defs: FRE 602, 802, 401-02, 403.		
343A	CD Jay Ferguson Interview with Bruce Pates Summerland, CA (June 28, 2000)[AUDIO][Ferguson]	Defs: FRE 401-02.		
344	[DVD] CD Image – 1st Atlanta Pop			

	Festival [Ferguson]			
344V	[DVD] CD Image – 1st Atlanta Pop Festival [VIDEO][Ferguson]			
345	“Pop Music Festival – With Extras – Brings out the Youth” - NY Times (7/7/1969)[Ferguson]			
346	Texas International Pop Festival Poster, Picture, and News Articles [Ferguson]	Defs: FRE 901, 802, 401-02, 403.		
347	Ode Records Recording Contract (8/29/1967) [Ferguson]			
348	Taurus Copyright Registration [Ferguson]	Defs: FRE 1002.		
349	Dave Waterbury Phone Call[Transcript] [Plant][402]	Defs: Defs MIL # 1, 11, FRE 802.		
349A	Dave Waterbury Phone Call [AUDIO] [Plant][402A]	Defs: Defs MIL # 1, 11, FRE 802.		
350	Posters and Concert Tickets [Andes]	Defs: as to 350-4 to 350-14, FRE 802, 901, 401-02, 403.		
351	Subpoena for Mark Andes [Andes]			

352	Bruce Pates Document for Spirit Setlist from (2/1/1969)[And es]			
353	“Stairway to Heaven: Song Remains Pretty Similar” by Vernon Silver [Andes]	Defs: Defs MIL # 2, # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
360	Subpoena Bruce Pates [Pates]			
361	Letter to Ed Cassidy and Notice from Hollenbeck (6/30/1971)[Pat es]	Defs: FRE 401-02.		
362	Songwriter Contract (8/29/1967)[Pat es]	Defs: this is Cassidy’s songwriter contract, which is not relevant; FRE 401-02, 403, 404.		
363	Vintage Guitar Magazine [Pates]	Defs: FRE 401-02.		
364	Cds and List of Songs	Defs: as to 1st CD, Defs MIL # 3, FRE 401-02, 403, 802, 901; as to 5th CD, FRE 401-02, 403, 802, 901, 1002; as to 6th CD, Defs MIL # 2, # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1); as to 7th CD, FRE 802, 901.		
365	Email on Texas Intl. Pop Festival Files from Francis to Peter [Pates]	Defs: FRE 401-02; to the extent plaintiff means to refer to the audio files transferred, <i>see</i> objections to Exh. 364.		
366	Goldmine Magazine with Randy Interview [Pates]	Defs: FRE 802, 901, 401-02, 403, 404.		

367	Spirit CD – Civic Center Santa Monica, CA (9-29- 1967)[Pates]	Defs: as to 1st CD, Defs MIL # 3, FRE 401-02, 403, 404, 802, 901, 1002.		
367A	Spirit CD – Civic Center Santa Monica, CA (9-29-1967) [AUDIO][Pates]	Defs: Defs MIL # 3, FRE 401-02, 403, 404, 802, 901, 1002.		
368	Led Zeppelin CD – Whisky A Go (1/5/1969)[Pates s]	Defs: FRE 401-02.		
368A	Led Zeppelin CD – Whisky A Go (1/5/1969)[AU DIO][Pates]	Defs: FRE 401-02.		
369	Spirit CD – Live at the Troubadour (12-6- 1975)[Pates]	Defs: Defs MIL # 3, FRE 401-02, 403, 802, 901, 1002.		
369A	Spirit CD – Live at the Troubadour (12-6- 1975)[AUDIO][Pates]	Defs: Defs MIL # 3, FRE 401-02, 403, 802, 901, 1002.		
370	Quinn Message to Bruce Pates [Pates]	Defs: FRE 401-02.		
371	Quinn Message to Pates on (4- 30-2002)[Pates]	Defs: FRE 401-02.		
372	Quinn Message to Bruce Pates on Yahoo Groups [Pates]	Defs: FRE 401-02.		
373	Spirit Album [Pates]	Defs: this deposition exhibit is a photocopy of the back of the album; to the extent plaintiff intends to refer to the audio recordings on the album, Defs MIL # 3, FRE 401-02,		

		403, 1002.		
374	Bruce Pates Post on Yahoo Group [Pates]	Defs: FRE 401-02, 802, 602, Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
375	Bruce Pates Comment on TeamRock [Pates]	Defs: FRE 401-02, 802, 602, Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
376	Bruce Comments on Article (12-12- 2015)[Pates]	Defs: FRE 401-02, 802, 602, Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
377	Note from Randy to Bruce [Pates]	Defs: FRE 401-02, 403, 802.		
378	Postcard – Note from Randy to Bruce [Pates]	Defs: FRE 401-02, 403, 802.		
379	Postcard – Note from Randy to Bruce [Pates]	Defs: FRE 401-02, 403, 802.		
380	Note to Bruce from Bernice Pearl (1991)[Pates]	Defs: FRE 401-02, 403, 802.		
381	Bernice and the Guys Note to Bruce [Pates]	Defs: FRE 401-02, 403, 802.		
382	Note from Bernice to Bruce [Pates]	Defs: FRE 401-02, 403, 802.		
383	Note from Bernice to Bruce (1991)[Pates]	Defs: FRE 401-02, 403, 802.		
384	Led Zeppelin Collector's Edition [Pates]	Defs: Defs MIL #2, # 5, FRE 407, 408, 401-02, 403, 404, 802; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
385	Marshall Berle and Bruce Pates Exchange (May	Defs: FRE 401-02, 403, 802, 602.		

1		2014)[Pates]		
2				
3	386	Email Chain Between Jay and Bruce Pates, 6/16/15	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404, 802; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).	
4				
5	387	Ferguson and Pates Email (June 2015)[Pates]	Defs: Defs MIL # 2, # 5, FRE 401- 02, 403, 404, 408, 802.	
6				
7	388	Wikipedia – LZ North American Tour (68- 69)[Pates]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404, 802; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).	
8				
9	389	Yahoo Group Message – Between Dave and Bruce [Pates]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404, 802; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).	
10				
11	390	Spirit Poster [Pates]	Defs: FRE 401-02.	
12				
13	391	Jay and Bruce Email from (9- 14-2014)[Pates]	Defs: Defs MIL #1, # 5, FRE 407, 408, 401-02, 403, 404, 802; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).	
14				
15	392	Transcript of Phone Call between Francis Malofiy and Tracy Longo [Plant] [403]		
16				
17	393	Photograph of Guitar Case		
18				
19	394	Photograph of Guitar		
20				
21	395	The Last Randy California Guitar		
22				
23	400	Stairway to Heaven Sheet Music (Superhype Music		
24				
25				
26				
27				
28				

	1972)[Plant]			
401-02	School of Rock Magazine – Led Zeppelin Edition – Bonham Article [Plant]	Defs: Defs MIL # 2, FRE 901, 802, 805.		
402	Dave Waterbury Phone Call Transcript [Plant]	Defs: Defs MIL # 1, 11, FRE 802; duplicative exhibit.		
402A	Dave Waterbury Phone Call Transcript [AUDIO][Plant]	Defs: Defs MIL # 1, 11, FRE 802; duplicative exhibit.		
403	Tracy Longo Phone Call Transcript [Plant]	Defs: Defs MIL # 1, 11, FRE 802.		
403A	Tracy Longo Phone Call Transcript [AUDIO][Plant]	Defs: Defs MIL # 1, 11, FRE 802.		
404	2004 Robert Plant Interview on NPR with Terry Gross (22:10 to 25:46)[Plant]	Defs: Defs MIL # 2, #5, FRE 401-02, 403, 404, 407, 408, 1002, 802.		
404A	2004 Robert Plant Interview on NPR with Terry Gross (22:10 to 25:46)[Plant]	Defs: audio recordings not produced by plaintiff despite agreement to do so; 26(a), 26(e), 37(c)(1); MIL # 5, FRE 407, 408, 401-02, 403, 404.		
404T	Transcript of 2004 Robert Plant Interview on NPR with Terry Gross			

1	405A	Dazed and Confused (Led Zeppelin)(Clip) [AUDIO][Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
2	406A	Dazed and Confused (Jake Holmes)(Clip)[AUDIO][Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
3	407A	Babe I'm Gonna Leave You (Led Zeppelin)(1969) (Clip)[AUDIO] [Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
4	408A	Babe I'm Gonna Leave You (Joan Baez/Anne Bredon)(1962)(Clip)[AUDIO][Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
5	409A. A	Whole Lotta Love (Led Zeppelin)(Clip A)[AUDIO][Pla nt]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
6	409A.B	Whole Lotta Love (Led Zeppelin)(Clip B)[AUDIO][Pla nt]			
7	409A.C	Whole Lotta Love (Led Zeppelin)(Clip C)[AUDIO][Pla nt]			
8	410A	You Need Love (Willie Dixon/Muddy Waters)(Clip)[AUDIO][Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
9	411A	You Need Lovin' (The Small Faces)(Clip)[A UDIO][Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		

412A	Communication s Breakdown (Led Zeppelin)(1969) (Clip)[AUDIO] [Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
413A	Nervous Breakdown (Eddie Cochran)(1958) (Clip)[AUDIO] [Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
414A	Since I've Been Loving You (Led Zeppelin)(Clip) [AUDIO][Plant]	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
415A	Never (Moby Grape)(Clip)[A UDIO][Plant	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404; failure to identify/provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
450	Stipulation to Order and Order for Substituted Judgment to Create and Fund Revocable Living Trust and Execute a Pour-Over Will (Probate Code Sec. 2 580(b)(5)) and (13))			
	[Skidmore]			
451	Randy Craig Wolfe Trust [Skidmore]			
452	First Amendment to Randy Craig Wolfe Trust (February 26,			

1		2002)[Skidmore]		
2				
3	453	Second Amendment to Randy Craig Wolfe Trust (February 26,2002) [Skidmore]		
4				
5				
6				
7	454	Third Amendment to Randy Craig Wolfe Trust (February 26, 2002 [Skidmore]		
8				
9				
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12	455	Fourth Amendment to Randy Craig Wolfe Trust (February 26, 2002)[Skidmore]		
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15				
16	456	Fifth Amendment to Randy Craig Wolfe Trust (February 26, 2002)[Skidmore]		
17				
18				
19				
20	457	Certification of Trust Existence and Authority [Skidmore]		
21				
22	458	Royalty Statement [Skidmore]	Defs: FRE 401-02.	
23				
24	459	Royalty Statement [Skidmore]	Defs: FRE 401-02.	
25				
26	460	Royalty Statement [Skidmore]	Defs: FRE 401-02.	
27				
28	461	Alice Cooper Interview [Skidmore]	Defs: FRE 401-02, 802.	

462	The Rock and Roll Hall of Fame and Museum, The Jimi Hendrix Experience Biography [Skidmore]	Defs: FRE 401-02, 802.		
463	'The Doctor of Rock and Roll,' an Interview with Al Kooper [Skidmore]	Defs: FRE 401-02, 802.		
464	Rock'n'roll Confidential, Walter Becker, One Half of the Steely Dan Superbrain Talks Dylan, Psychology and The Blues [Skidmore]	Defs: FRE 401-02, 802.		
465	Obituary: Randy California [Skidmore]	Defs: FRE 401-02, 802.		
466	Randy California on Hendrix and Jimmy James & The Blue Flames [Skidmore]	Defs: FRE 401-02, 802.		
467	Jimmy James & The Blue Flames, 1. Bright Lites, Big City; 2. I'm a Man .. [Skidmore]	Defs: FRE 401-02.		
468	Email (Monday, November 10, 2008 6:54:51 PM)[Skidmore]	Defs: Defs MIL # 3, FRE 401-02, 403, 802, 602.		
469	Skidmore	Defs: Defs MIL # 3, FRE 401-02,		

	Supplemental Document Production [Skidmore]	403, 802, 602.		
470	Skidmore Supplemental Document Production [Skidmore]	Defs: Defs MIL # 8; FRE 802; Defs MIL #1, # 5, FRE 407, 408, 401-02, 403, 404, 802; failure to identify/ provide expert testimony as to claimed use, FRCP 26(a), 26(e), 37(c)(1).		
475	Subpoena to Testify at a Deposition in a Civil Action [Ruhlmann]			
480	Barney Hoskyns, "Led Zeppelin IV" (2006) (book)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
481	Light and Shade, by Brad Tolinski (book)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
482V	Origin of Species Led Zeppelin: A Critical Review of the Band's Roots and Branches (DVD)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
483V	Led Zeppelin: The Untold Story (DVD)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
484V	Led Zeppelin 1969 (DVD)	Def: such a DVD has never been produced to defendants; FRCP 26(a)(1), (e) & 37(c); FRE 401-02, 403, 1002, & MIL # 4, # 5.		
485V	Led Zeppelin Reunion Collection (DVD)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
486V	Rock 'n Roll (Season: 1 Episode 5: Crossroads	Def: such an exhibit has never been produced to defendants; FRCP 26(a)(1), (e) & 37(c); FRE 401-02, 403, 1002, & MIL # 4, # 5.		

	(WGBH in Boston in Partnership with the BBC)			
487	Jimmy Page by Jimmy Page (Book)			
488A	Led Zeppelin - 4 cassette box set and book (1990 – Atlantic Recording)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
489	The Little Black Songbook: Led Zeppelin (2009 Wise Publications)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
490	The Encyclopeida of Picture Chords for All Guitarists (Book)	Def: such an exhibit has never been produced to defendants; FRCP 26(a)(1), (e) & 37(c); FRE 401-02, 403, 1002, & MIL # 4, # 5.		
491	The Ultimate Collector's Edition – Led Zeppelin: The Complete Story (magazine)	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
492V	Led Zeppelin (DVD)			
493	Led Zeppelin: The Concert File by Dave Lewis and Simon Pallett	Def: such an exhibit has never been produced to defendants; FRCP 26(a)(1), (e) & 37(c); MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
494	Led Zeppelin on Led Zeppelin by Hank Borodowitz	Def: such an exhibit has never been produced to defendants; FRCP 26(a)(1), (e) & 37(c); MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		
495	Led Zeppelin: When Giants Walked the Earth by Mick	Def: MIL # 2, #5; failure to identify portion to be offered; FRE 401-02, 403, 404, 405, 407, 408, 702, 802, 805, 901.		

	Mall			
500	Chromatic Line [Stewart Exhibit]			
501	Other Art Chromatic Line Comparison [Stewart Exhibit]			
502	Harmony [Stewart Exhibit]			
503	Ferrara Harmony Comparison [Stewart Exhibit]			
504	Mathes Taurus Deposit Copy [Stewart Exhibit][2603.B]			
505	A Section Taurus and STH [Stewart Exhibit]			
506	Taurus and STH Note Pairings [Stewart Exhibit]			
507	Mathes [2603][2603.B][2603.C][2605] [Stewart Exhibit]			
508	Ferrara [2704][2705][2 707] [Stewart Exhibit]			
509	Taurus and STH Pitch Collections (Graphed) [Stewart			

	Exhibit]			
510	Taurus and STH Pitch Collections (Written) [Stewart Exhibit]			
511	Taurus and STH Pitch Inventory (Quantative) [Stewart Exhibit]			
512	Taurus and STH Form [Stewart Exhibit]			
513	T Deposit Copy and STH Vocal Melody [Stewart Exhibit]			
514	Wayne's World Film Information [Stewart Exhibit]			
514V	Wayne's World World Stairway Clip (with Overdub)			
514VV	Wayne's World World Stairway Clip (without Overdub)			
515	"Phrase" (Harvard Dictionary of Music) [Stewart Exhibit]			
516	Stewart To Catch a Shad Interlude Transcription			
517	Defense Rebuttal Expert	Plt: FRE 401-402; Failure to Disclose		

	Disclosure			
518	Rebuttal Report of Lawrence Ferrara	Plt: FRE 401-402; Failure to Disclose		
518.1A	To Catch a Shad, Ferrara Audio Exhibit 3	Plt: FRE 401-402; Failure to Disclose		
519	Rebuttal Report of Robert Mathes	Plt: FRE 401-402; Failure to Disclose		
519.1A	Prelude for Lute in C Minor, BWV 999_ I. Prelude	Plt: FRE 401-402; Failure to Disclose		
519.2A	Can't Find My Way Home	Plt: FRE 401-402; Failure to Disclose		
519.3A	Walk on By	Plt: FRE 401-402; Failure to Disclose		
519.4A	4 + 20	Plt: FRE 401-402; Failure to Disclose		
519.5A	Davy Graham - Cry Me A River - 1959 BBC - audio	Plt: FRE 401-402; Failure to Disclose		
519.6A	Davy Graham - Cry Me A River - 1959 BBC- video	Plt: FRE 401-402; Failure to Disclose		
519.7A	Misirlou (Single Version) mp3	Plt: FRE 401-402; Failure to Disclose		
519.8A	Mellow Yellow	Plt: FRE 401-402; Failure to Disclose		
519.9A	Season of the Witch	Plt: FRE 401-402; Failure to Disclose		
519.10 A	Sunshine Superman	Plt: FRE 401-402; Failure to Disclose		
519.11 A	There's a Kind of Hush	Plt: FRE 401-402; Failure to Disclose		
519.12 A	River Deep Mountain High	Plt: FRE 401-402; Failure to Disclose		
519.13 A	Time In a Bottle	Plt: FRE 401-402; Failure to Disclose		
519.14 A	Winter Is Gone	Plt: FRE 401-402; Failure to Disclose		
519.15 A	Song to a Seagull	Plt: FRE 401-402; Failure to Disclose		
519.16	A House Is Not	Plt: FRE 401-402; Failure to		

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A	a Motel (2015 Remastered Version)	Disclose		
519.17 A	Alone Again Or (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.18 A	Andmoreagain (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.19 A	Bummer In the Summer (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.20 A	Live and Let Live (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.21 A	Maybe the People Would Be the Times Or Between Clark and Hilldale (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.22 A	Old Man (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.23 A	The Daily Planet (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.24 A	The Good Humor Man He Sees Everything Like This (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.25 A	The Red Telephone (2015 Remastered Version)	Plt: FRE 401-402; Failure to Disclose		
519.26 A	You Set the Scene (2015	Plt: FRE 401-402; Failure to Disclose		

	Remastered Version)			
519.27 A	Here Comes the Night	Plt: FRE 401-402; Failure to Disclose		
519.28 A	To Sir With Love mp3	Plt: FRE 401-402; Failure to Disclose		
519.29 A	Scarborough Fair	Plt: FRE 401-402; Failure to Disclose		
519.30 A	The Trees They Do Grow High	Plt: FRE 401-402; Failure to Disclose		
519.31 A	Downtown	Plt: FRE 401-402; Failure to Disclose		
519.32 A	Scarborough Fair _ Canticle__	Plt: FRE 401-402; Failure to Disclose		
519.33 A	The Sounds of Silence	Plt: FRE 401-402; Failure to Disclose		
519.34 A	Caroline, No mp3	Plt: FRE 401-402; Failure to Disclose		
519.35 A	Don't Talk (Put Your Head On My Shoulder) mp3	Plt: FRE 401-402; Failure to Disclose		
519.36 A	God Only Knows mp3	Plt: FRE 401-402; Failure to Disclose		
519.37 A	Here Today mp3	Plt: FRE 401-402; Failure to Disclose		
519.38 A	I Just Wasn't Made for These Times mp3	Plt: FRE 401-402; Failure to Disclose		
519.39 A	I Know There's an Answer mp3	Plt: FRE 401-402; Failure to Disclose		
519.40 A	I'm Waiting for the Day mp3	Plt: FRE 401-402; Failure to Disclose		
519.41 A	Let's Go Away for Awhile mp3	Plt: FRE 401-402; Failure to Disclose		
519.42 A	Pet Sounds mp3	Plt: FRE 401-402; Failure to Disclose		
519.43 A	Sloop John B mp3	Plt: FRE 401-402; Failure to Disclose		
519.44 A	That's Not Me mp3	Plt: FRE 401-402; Failure to Disclose		
519.45 A	Wouldn't It Be Nice mp3	Plt: FRE 401-402; Failure to Disclose		
519.46 A	You Still Believe In Me mp3	Plt: FRE 401-402; Failure to Disclose		

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519.47 A	A Day in the Life	Plt: FRE 401-402; Failure to Disclose		
519.48 A	Blackbird	Plt: FRE 401-402; Failure to Disclose		
519.49 A	Fixing a Hole	Plt: FRE 401-402; Failure to Disclose		
519.50 A	The Fool on the Hill	Plt: FRE 401-402; Failure to Disclose		
519.51 A	In My Life	Plt: FRE 401-402; Failure to Disclose		
519.52 A	Mother Nature's Son	Plt: FRE 401-402; Failure to Disclose		
519.53 A	Walk Away Renee	Plt: FRE 401-402; Failure to Disclose		
519.54 A	California Dreamin'	Plt: FRE 401-402; Failure to Disclose		
519.55 A	Monday, Monday	Plt: FRE 401-402; Failure to Disclose		
519.56 A	Sometime in the Morning	Plt: FRE 401-402; Failure to Disclose		
519.57 A	The Girl I Knew Somewhere	Plt: FRE 401-402; Failure to Disclose		
519.58 A	Lady Jane	Plt: FRE 401-402; Failure to Disclose		
519.59 A	Play With Fire	Plt: FRE 401-402; Failure to Disclose		
519.60 A	Ruby Tuesday	Plt: FRE 401-402; Failure to Disclose		
519.61 A	She's a Rainbow	Plt: FRE 401-402; Failure to Disclose		
519.62 A	Wipe Out mp3	Plt: FRE 401-402; Failure to Disclose		
519.63 A	Still I'm Sad	Plt: FRE 401-402; Failure to Disclose		
519.64 A	White Summer	Plt: FRE 401-402; Failure to Disclose		
519.65 A	It's Not Unusual	Plt: FRE 401-402; Failure to Disclose		
520	Spirit Album Liner Notes			
521	Royalty Statements for Randy Wolfe			
522	Billboard Magazine (1968.09.28)			

523	Top Pop Albums 1955- 1992 - Joel Whitburn			
524V	STH [Plaintiff Video Exhibit]			
525V	TAURUS DEPOSIT [Plaintiff Video Exhibit]			
527V	T DEPOSIT (Bass Clef) [Plaintiff Video Exhibit]			
529V	STH PAIRS[Plaintiff Video Exhibit]			
530V	T PAIRS [Plaintiff Video Exhibit]			
532V	TAURUS ALBUM [Plaintiff Video Exhibit]			
534V	TAURUS (Treble Clef) [Plaintiff Video Exhibit]			
535	Andes and Plant Photo			
536	Spirit and Led Zeppelin Poster - Illinois Speedway			
537	Randy California Pictures			
538	1968.12.30 - Led Zeppelin Gonazage University Concert, Spokane Washington			
538.1A	The Train Kept A Rollin			
538.2A	I Can't Quit			

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	You			
538.3A	As Long As I Have You w Fresh Garbage			
538.4A	Dazed and Confused			
538.5A	White Summer			
538.6A	How Many More Times			
538.7A	Pat's Delight			
539	1996 Randy Wolfe Interview			
540.1A	Ferrara Audio Exhibit 1 - Taurus			
540.2A	Ferrara Audio Exhibit 2 - Stairway to Heaven			
540.3A	Ferrara Audio Exhibit 3 - The Meaning of the Blues			
540.4A	Ferrara Audio Exhibit 4 - Chim Chim Cher-ee			
540.5A	Ferrara Audio Exhibit 5 - How Insensitive			
540.6A	Ferrara Audio Exhibit 6 - Walking My Baby Back Home			
540.7A	Ferrara Audio Exhibit 7 - More			
540.8A	Ferrara Audio Exhibit 8 - Spring is Near			
540.9A	Ferrara Audio Exhibit 9 - My Funny Valentine			
540.10	Ferrara Audio			

1	A	Exhibit 10 - A Taste of Honey			
2	540.11	Ferrara Audio			
3	A	Exhibit 11 - Cry Me a River			
4	540.12	Ferrara Audio			
5	A	Exhibit 12 - Michelle			
6	540.13	Ferrara Audio			
7	A	Exhibit 13 - Music to Watch Girls By			
8	540.14	Ferrara Audio			
9	A	Exhibit 14 - Summer Rain			
10	540.15	Ferrara Audio			
11	A	Exhibit 15 - Ice Cream Dreams			
12	540.16	Ferrara Audio			
13	A	Exhibit 16 - Thoughts			
14	540.17	Ferrara Audio			
15	A	Exhibit 17 - And She's Lonely			
16	604	Led Zeppelin IV (Standard Re-Issue) [D604]			
17	605	Led Zeppelin IV (Deluxe 2-LP Set) [D605]			
18	606	Led Zeppelin IV (Super Deluxe Edition Box Set)[Page]			
19	606	Led Zeppelin IV (Super Deluxe Edition Box Set)(CD)[Page]			
20	606.76	Led Zeppelin IV (Super Deluxe Edition Box Set)(Book; p.76)[Page][D606]			
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606.1	Led Zeppelin IV (Super Deluxe Edition Box Set)(Book; p.10)[Page][D6 06]			
606.4	Led Zeppelin IV (Super Deluxe Edition Box Set)(Book; p.4)[Page][D60 6]			
606.5	Led Zeppelin IV (Super Deluxe Edition Box Set)(Book; p.5)[Page][D60 6]			
606.9	Led Zeppelin IV (Super Deluxe Edition Box Set)(Book; p.9)[Page][D60 6]			
642	WB Music Corp. c/o Warner/Chappe ll			
	Music, Inc. – Administration			
	Agreement (1/1/08) [Blietz450] [Woirhay450][D642]			
655	Summary of "Stairway to Heaven" US Mechanical Royalties (3Q11 - 3Q15)[Blietz45 7][D655]			
697	Summary of "Stairway to Heaven"			

	ASCAP US Publishing Receipts (3Q11 - 3Q15)[Blietz46 0][D697]			
698	Summary of "Stairway to Heaven" US Synchronization Licenses (May 31, 2011 – Present)[Blietz4 62] [D698]			
699	Summary of "Stairway to Heaven" Miscellaneous US Publishing Receipts (3Q11 - 3Q15)[Blietz45 9][D699]			
700	Backup Documentation [Blietz461][D7 00]			
701	WB Music Corp. Summary Statement (July to September 2011)[Blietz466][D701]			
1165	WB Music Corp. Summary Statement (January to March 2012)[Blietz463][D1165]			
1493	WB Music Corp. Summary Statement (April to June 2012)[Blietz464][D1493]			
2067	WB Music			

	Corp. Summary Statement (January to March 2013)[Blietz465][D2067]			
3471	WB Music Corp. Summary Statement (April to June 2014)[Blietz467][D3471]			
3633	WB Music Corp. Summary Statement (July to September 2014)[Blietz468][D3633]			
4123	WB Music Corp. Summary Statement (January to March 2015)[Blietz469][D4123]			
4547	WB Music Corp. Summary Statement (April to June 2015)[Blietz470][D4547]			
5053	Royalty Summary Statement Led Zeppelin (early/latter)[Woirhaye472][D5053]			
28165	Royalty Summary Statement (April 2011 - June 2011)[Woirhaye473][D28165]			
35850	Rhino Entertainment			

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	Company and Superhype Tapes, Ltd. Profit Participation Statement (Quarter Ending December 2012) [Blietz 452] [D35850]			
35852	Schedule A, Led Zeppelin Catalog, Domestic Physical Sales (Quarter Ending December 2012) [Blietz453] [D35852]			
35853	Schedule B, Led Zeppelin Catalog, Domestic Digital Sales - Album (Quarter Ending December 2012) [Blietz454] [353853]			
35854	Schedule C, Led Zeppelin Catalog, Domestic Digital Sales - Tracks (Quarter Ending December 2012) [Blietz455] [D35854]			
40419	Rhino/Atlantic US P&L "Stairway to Heaven" 95/31/11 - 10/30/15)			

	[Blietz451] [Woirhay471] [D40419]			
40,421-40,450	Defendants' Supplemental Discovery Production	Defs: failure to specify discrete exhibits to which objections may be stated, referring instead to a supplemental production.		
40, 451-55	Defendants' Supplemental Financial Summaries			
	PLAINTIFF'S DISCOVERY			
	Spirit – Taurus – 3 Versions			
750A	01 Track 01	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802.		
751A	02 Track 02	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802.		
752A	03 Track 03	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802.		
	Spirit – Randy Speaks – The Change – Poughkeepsie NY – 05.29.1987			
753A	01 Track 01	Defs: Defs MIL # 1, FRE 802, 401-02, 403, 710.		
754A	02 Track 02	Defs: Defs MIL # 1, FRE 802, 401-02, 403, 710.		
	Spirit – Hornsey Town Hall – N. London UK 02.03.1970			
755A	01 Track 01			
756A	02 Track 02			
757A	03 Track 03			
758A	04 Track 04			
759A	05 Track 05			

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760A	06 Track 06			
761A	07 Track 07			
762A	08 Track 08			
763A	09 Track 09			
764A	10 Track 10			
765A	11 Track 11			
766A	12 Track 12			
767A	13 Track 13			
768A	14 Track 14			
769A	15 Track 15			
770A	16 Track 16			
	Spirit – Civic Center Santa Monica CA 09.29.1967			
771A	01 Track 01	Defs: Defs MIL # 3, FRE 401-02, 403.		
772A	02 Track 02	Defs: Defs MIL # 3, FRE 401-02, 403.		
773A	03 Track 03	Defs: Defs MIL # 3, FRE 401-02, 403.		
774A	04 Track 04	Defs: Defs MIL # 3, FRE 401-02, 403.		
775A	05 Track 05	Defs: Defs MIL # 3, FRE 401-02, 403.		
776A	06 Track 06	Defs: Defs MIL # 3, FRE 401-02, 403.		
777A	07 Track 07	Defs: Defs MIL # 3, FRE 401-02, 403.		
778A	08 Track 08	Defs: Defs MIL # 3, FRE 401-02, 403.		

1	779A	09 Track 09	Defs: Defs MIL # 3, FRE 401-02, 403.		
2		Led Zeppelin –			
3		Texas Pop			
4		Festival, Dallas			
5	780A	1	Def: FRE 401-02.		
6	781A	2	Def: FRE 401-02.		
7	782A	3	Def: FRE 401-02.		
8	783A	4	Def: FRE 401-02.		
9	784A	5	Def: FRE 401-02.		
10	785A	6	Def: FRE 401-02.		
11	786A	7	Def: FRE 401-02.		
12		Led Zeppelin –			
13		Fillmore West			
14		– San			
15		Francisco CA			
16		09.09.1969			
17	787A	01 Track 01	Def: FRE 401-02.		
18	788A	02 Track 02	Def: FRE 401-02.		
19	789A	03 Track 03	Def: FRE 401-02.		
20		Led Zeppelin –			
21		Fillmore West			
22		– San			
23		Francisco CA			
24		01.11.1969			
25	790A	01 Track 01	Def: FRE 401-02.		
26	791A	02 Track 02	Def: FRE 401-02.		
27	792A	03 Track 03	Def: FRE 401-02.		
28	793A	04 Track 04	Def: FRE 401-02.		
		1969-09-01			
		Texas			
		International			
		Pop Festival			

794A	1			
795A	2			
796A	3			
797A	4			
798A	5			
799A	6			
800A	7			
801A	8			
	Led Zeppelin – Discovery Issues – Discovery (SERVED)			
802	69_detroit_may _ad.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
803	1968_12-26- lzcom_ticketstu b.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
804	atlantapoop69_j P.JPG	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
805	atlantapop_tick et-letter.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as		

		to those exhibits apply; otherwise, objections reserved.		
806	atlantapop69_press1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
807	atlantapop69_press1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
808	atlantapop69-1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
809	atlantapop69-1b.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
810	atlantapop69-2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
811	atlantapop69-3.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

812	atlantapop69-4.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
813	atlantapop69-a.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
814	atlantapop69-b.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
815	atlantapop69poster.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
816	atlantapop69-v.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
817	atlantapop69-v2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
818	atlantapop69-v3.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

		objections reserved.		
819	atlantapop- billboard_press. jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
820	atnaltapop69_tk t2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
821	Bernice Note 1 2004.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
822	Bernice Note 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
823	Bernice Note 3.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
824	Bernice Note 4.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

825	Bob Plant.pdf	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
826	Bruce Spirit Yahoo Groups Post.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
827	Bruce Team Rock Reply.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
828	Bruce Yahoo Reply 1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
829	Bruce Yahoo Reply 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
830	dallas69- ticket.jpg dallaspop69_po ster2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
831	dallaspop69_pr ess.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

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		objections reserved.		
832	denver68_ad.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
833	denver68_review.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
834	Led Zeppelin Atlanta Pop 69.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
835	Led Zeppelin Book.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
836	LED ZEPPELIN Fresh Garbage.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
837	LZ Giants Page 99.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

838	LZ Giants Page 100.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
839	LZ Guitar World Dec 1993 page 50.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
840	LZ Guitar World Dec 1993 page 52.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
841	photo.JPG	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
842	Randy Note 1-1991.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
843	Randy Note 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
844	Randy Note 3.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

		objections reserved.		
845	San Jose CA 1969 Festival Poster.jpeg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
846	Seattle Pop Fest 1969 Handbill.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
847	seattlepop69_ad .jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
848	seattlepop69tkr. jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
849	SPIRIT 1st Album Liner Notes.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
850	SPIRIT 1st Australia.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

851	SPIRIT 1st Germany.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
852	SPIRIT 1st Japan.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
853	SPIRIT 1st UK.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
854	SPIRIT 68 Agreement.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
855	SPIRIT Atlanta Pop 1969.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
856	SPIRIT End Of All For One Page 1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
857	SPIRIT End Of All For One Page 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

		objections reserved.		
858	SPIRIT End Of All For One Page 3.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
859	SPIRIT Hornsey N. London 3 Feb 70.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
860	SPIRIT Jimmy Page Quote on Spirit 1970.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
861	SPIRIT Leicester UK 4 Feb 70.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
862	SPIRIT Poughkeepsie 1987.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
863	SPIRIT Randy Listener Int. Winter 1997.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

864	Spirit Randy Texas Pop Festival Sep 1 1969.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
865	SPIRIT Relix 1982 Skidmore 1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
866	SPIRIT Relix 1982 Skidmore 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
867	SPIRIT Relix 1993 Skidmore 1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
868	SPIRIT Relix 1993 Skidmore 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
869	SPIRIT Relix 1997 Skidmore 1.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
870	SPIRIT Relix 1997 Skidmore 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

		objections reserved.		
871	SPIRIT Seattle Pop 1969.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
872	Spirit Texas Pop 69 - 2.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
873	Spirit Texas Pop 69.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
874	spirit2atlpop[1] (2).jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
875	Texas Pop 1969 Review.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
876	Texas Pop Fest Ad 1969.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

877	zeppelin_beats_blizzard_12-68.jpg	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
878	2015.12.30 - LED ZEPPELIN - DISCO - PLT SUPPLEMENTAL DOCUMENT PRODUCTION (SERVED).pdf	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
	Led Zeppelin – Disco – Plaintiff’s Audio Files – Taurus (SERVED)			
879A	Taurus – Live – Ash Grove (07.31.1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
880A	Taurus – Live – Ash Grove (08.08.1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
881A	Taurus – Live – Kaliedescope (04.05.1968)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
882A	Taurus – Live – The Time Coast	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
883A	Taurus – Live – (07.10.1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
884A	Taurus – Live Acoustic (1996)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
885A	Taurus – Recording (08.1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		
886A	Taurus – Studio Version (11.10.1967)	Defs: Defs MIL # 3, FRE 401-02, 403, 1002, 802; duplicative of other exhibit.		

	2015.02.10 – Led Zeppelin Jimmy Page Book (SERVED)			
887	2015.02.10 – Led Zeppelin – FYE – Philadelphia, CD Scan – Receipt (SERVED)	Defs: FRE 401-02, 403, MIL # 2.		
888	2015.02.10 – Led Zeppelin – FYE – Philadelphia – CD Scans (SERVED)	Defs: FRE 401-02, 403, MIL # 2.		
889	2015.02.10 – Led Zeppelin – Jimmy Page Book (SERVED)	Defs: FRE 401-02, 403, MIL # 2.		
	All Plaintiff's Expert Reports & Declarations with Exhibits			
890	Plaintiffs' Experts Disclosures	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802.		
891	Plaintiff's Expert Report, CV/Resume, Audio/Visual Exhibit - Alexander Stewart	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
892	Plaintiff's Expert Declaration, CV/Resume, Audio/Visual Exhibit - Alexander Stewart	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
893	Plaintiff's Expert Report, CV/Resume,	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		

	Audio/Visual Exhibit - Kevin Hanson			
894	Plaintiff's Expert Declaration, CV/Resume, Audio/Visual Exhibit – Kevin Hanson	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
895	Plaintiff's Expert Report, CV/Resume, Audio/Visual Exhibit - Erik Johnson	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
896	Plaintiff's Expert Declaration, CV/Resume, Audio/Visual Exhibit - Erik Johnson	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
897	Plaintiff's Expert Report, CV/Resume, Audio/Visual Exhibit – Brian Bricklin	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
898	Plaintiff's Expert Declaration, CV/Resume, Audio/Visual Exhibit - Brian Bricklin	Defs: Defs MIL # 3, #4, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
899	Plaintiff's Expert Report, CV/Resume, Audio/Visual Exhibit – Denny Somach	Defs: Defs MIL # 3, #6, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		
900	Plaintiff's Expert Declaration, CV/Resume, Audio/Visual Exhibit - Denny	Defs: Defs MIL # 3, #6, FRE 401-02, 403, 1002, 802, failure to produce for deposition.		

	Somach			
901	Plaintiff's Expert Report, CV/Resume, Audio/Visual Exhibit t - Michael Einhorn	Defs: failure to produce for deposition.		
	Declarations			
903	Declaration of Paul Franklin With Exhibit	Defs: Def MIL 1, 10, 11, FRE 802, FRCP 26(a), 26(e), 37(c)(1).		
904	Declaration of Tracy Longo With Exhibit	Defs: Def MIL 1, 11, FRE 802.		
905	Declaration of Andrea Wolfe With Exhibit	Defs: FRE 802, 602, 401-02, 403.		
906	Declaration of Janet Wolfe With Exhibit	Defs: FRE 802, 602, 401-02, 403.		
907	Declaration of Linda Mensch With Exhibit	Defs: FRE 802, 401-02.		
908	Declaration of David Waterbury With Exhibit	Defs: Def MIL 1, 11, FRE 802.		
909	Declaration of Francis Malofiy With Exhibit	Defs: improper testimony by counsel at trial; FRE 602, 802; Defs MIL #1, #2, #5.		
910	Declaration of Larry Knight With Exhibit	Defs: Defs MIL # 1, #10, #11, FRE 802, 401-02, 403, 802.		
911	Declaration of Barry Hansen With Exhibit	Defs: Defs MIL # 3, FRE 802, 401- 02, 403, 602.		
912	Declaration of Bruce Pates With Exhibit	Defs: FRE 401-02, 701, no expert disclosure provided, failure to comply with FRCP 26(a)(2).		
913	Declaration of Jay Ferguson With Exhibit	Defs: Defs MIL # 3, FRE 401-02, 701, no expert disclosure provided, failure to comply with FRCP 26(a)(2).		
914	Declaration of	Defs: FRE 401-02, 403, 602, 1002,		

	Michael Skidmore With Exhibit	802, failure to produce documents, FRCP 37(c)(1).		
915	Declaration of Mike Lee With Exhibit	Defs: Def MIL 1, 10, FRE 802, FRCP 26(a), 26(e), 37(c)(1).		
916	Declaration of Robert Lee With Exhibit	Defs: Def MIL 1, 10, FRE 802, FRCP 26(a), 26(e), 37(c)(1).		
917	Declaration of Mark Andes With Exhibit	Defs: Def MIL 3, FRE 401-02, 602, 1002.		
	All Defendants' Expert Reports & Declarations With Exhibits			
918	Defendants' Expert Report, CV/ Resume, Audio/Visual Exhibit - Lawrence Ferrara			
919	Defendants' Expert Declaration, CV/ Resume, Audio/Visual Exhibit - Lawrence Ferrara			
920	Defendants' Expert Report, CV/ Resume, Audio/Visual Exhibit - Rob Mathes			
921	Defendants' Expert Declaration, CV/ Resume, Audio/Visual			

	Exhibit – Rob Mathes			
	Declarations			
922	Declaration of James Patrick Page	Defs: failure to identify which declaration; FRE 401-02, 403.		
923	Declaration of Robert Anthony Plant	Defs: failure to identify which declaration; FRE 401-02, 403.		
924	Declaration of John Paul Jones	Defs: failure to identify which declaration; FRE 401-02, 403.		
925	Declaration of Helene Freeman	Defs: failure to identify which declaration; FRE 401-02, 403.		
926	Declaration of Peter J. Anderson	Defs: failure to identify which declaration; FRE 401-02, 403.		
	Plaintiffs' Document Production to Defendants			
927	2015.08.10 - LED ZEPPELIN - DISCO - COPYRIGHT REGISTRATIO N - STAIRWAY TO HEAVEN	Defs: FRE 401-02, 1002.		
928	2015.08.10 - LED ZEPPELIN - DISCO - COPYRIGHT REGISTRATIO N - TAURUS	Defs: FRE 1002.		
929	2015.08.10 - LED ZEPPELIN - DISCO - TRUST DOCUMENTS - CERTIFICATI ON OF TRUST EXISTENCE AND	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

	AUTHORITY (05.13.2008)			
930	2015.08.10 - LED ZEPPELIN - DISCO - TRUST DOCUMENTS - JUDGMENT ESTABLISHIN G FACTS (02.19.2002)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
931	2015.08.10 - LED ZEPPELIN - DISCO - TRUST DOCUMENTS - ORDER TO CREATE AND FUND TRUST (02.19.2002)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
932	2015.08.10 - LED ZEPPELIN - DISCO - TRUST DOCUMENTS - RANDY CRAIG WOLFE TRUST - 5TH AMENDMENT (05.13.2008)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
933	2015.08.10 - LED ZEPPELIN - DISCO - TRUST DOCUMENTS - RANDY CRAIG WOLFE TRUST (02.26.2002)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

934	2015.08.13 - LED ZEPPELIN - Plaintiff's Initial Disclosures	Def: FRE 401-02, 403, 802.		
935	2015.08.10 - LED ZEPPELIN - Defendants' Initial Disclosures			
936	2015.08.16 - LED ZEPPELIN - DISCO - LOU ADLER - HOLLENBEC K - ROYALTIES (01.01.2014 - 06.30.2014)	Def: FRE 401-02, 403, 802.		
937	2015.08.16 - LED ZEPPELIN - DISCO - LOU ADLER - HOLLENBEC K - ROYALTIES (07.01.2011 - 12.31.2011)	Def: FRE 401-02, 403, 802.		
938	2015.08.16 - LED ZEPPELIN - DISCO - LOU ADLER - HOLLENBEC K - ROYALTIES (07.01.2013 - 12.31.2013)	Def: FRE 401-02, 403, 802.		
939	2015.08.16 - LED ZEPPELIN - DISCO - LOU ADLER - HOLLENBEC K -	Def: FRE 401-02, 403, 802.		

	ROYALTIES (07.01.2014 - 12.31.2014)			
940	2015.09.28 - LED ZEPPELIN - DISCO - PLT CHART OF SPIRIT CONCERTS (1967-1971)	Def: FRE 901, 602, 802, 805.		
941	2015.09.28 - LED ZEPPELIN - DISCO - ASCAP & BMI STATMENTS - BEFORE & AFTER LAWSUIT	Def: FRE 401-02, 403, 802.		
942	2015.09.28 - LED ZEPPELIN - DISCO - CONTRACT - WRITER GETS ROYALTIES	Def: FRE 401-02, 403, 802.		
943	2015.09.28 - LED ZEPPELIN - DISCO - PLANT CRASH AFTER SPIRIT UK SHOW - NEW MUSICAL EXPRESS - (2.7.1970)	Def: duplicative exhibit.		
944	2015.09.28 - LED ZEPPELIN - DISCO - PLT CHART OF SPIRIT CONCERTS (1967-1971)	Def: FRE 901, 602, 802, 805.		

1	945	2015.09.28 - LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - SEATTLE POP FESTIVAL (1969)	Defs: failure to identify, potentially duplicative; objections reserved.		
2	946	2015.09.28 - LED ZEPPELIN - DISCO - SPIRIT CONCERTS - UK	Defs: failure to identify, potentially duplicative; objections reserved.		
3	947	2015.09.28 - LED ZEPPELIN - DISCO - WORLDWIDE DISTRIBUTIO N	Defs: failure to identify, potentially duplicative; objections reserved.		
4		Docketed Stipulated Protective Order	Defs: FRE 401-02, 403.		
5	948	Pates Email - 2014.05.21 - EMAIL - Fwd_ Take a look_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
6	949	Pates Email - 2014.09.14 - EMAIL - Fwd_ Taurus Update_Redact ed	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
7	950	Pates Email - 2014.10.17 - EMAIL - Fwd_ SPIRIT - One_ LED ZEPPELIN -	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

{00255828;1}

	Zero_Redacted	objections reserved.		
951	Pates Email - 2014.10.22 - EMAIL - Fwd_ And it goes on..._Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
952	Pates Email - 2014.10.22 - EMAIL - Fwd_ SPIRIT Article_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
953	Pates Email - 2014.12.11 - EMAIL - Fwd_ Latest_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
954	Pates Email - 2015.02.05 - EMAIL - JAY - Fwd_SPIRIT Lawsuit Update_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
955	Pates Email - 2015.02.15 - EMAIL - JAY - Fwd_Rhino SPIRIT Primer_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
956	Pates Email - 2015.05.08 - EMAIL - Fwd_ SPIRIT 2 LED ZEPPELIN 1_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

957	Pates Email - 2015.05.11 - EMAIL - Fwd_ Hi Bruce_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
958	Pates Email - 2015.05.21 - EMAIL - Fwd_ Randy California_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
959	Pates Email - 2015.06.16 - EMAIL - JAY - Fwd_ Legal bonfire_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
960	Pates Email - 2015.08.04 - EMAIL - Fwd_ SPIRIT Court Date_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
961	Pates Email - 2015.12.05 - EMAIL - JAY - Fwd_ Led Zeppelin Subpoenas_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
962	Pates Email - 2015.12.12 - EMAIL - Fwd_ SPIRIT - 2 LED ZEPPELIN - 1_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
963	Pates Email - 2015.12.12 - EMAIL - Quinn E-Mails Regarding Guitar Etc.	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

	(with exhibits)_Redacted	objections reserved.		
964	Pates Email - 2015.12.12 - EMAIL- Fwd_Hi Bruce_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
965	Pates Email - 2015.12.30 - EMAIL - Fwd_Randy California_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
966	Pates Email - 2014.05.22 - EMAIL - Fwd_Randy California_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
967	Pates Email - 2015.06.16 - EMAIL - Fwd_Legal bonfire_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
968	Pates Email - 2015.12.09 - EMAIL - Fwd_Randy California Confrontation with Jimmy Page_Redacted	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
969	2016.01.20 - LED ZEPPELIN - DISCO - PRIVILEGE LOG (SERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

1	970	2016.01.20 - LED ZEPPELIN - DISCO - DOCUMENT PRODUCTION (SERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
2	971	05.21.2014 - Take a look - photo	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
3	972	2016.01.20 - LED ZEPPELIN - DISCO - TRANSCRIPT OF PHONE CALL - TRACY LONGO	Defs: Defs MIL # 1, 11, FRE 802.		
4	973	LED ZEPPELIN - DISCO - CONTRACT - RECORD DEAL (LOU ADLER - ODE RECORDS)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
5	974	LED ZEPPELIN - DISCO - CONTRACT - SONGWRITIN G (LOU ADLER - HOLLENBEC K)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
6	975	SERVED - ZEPPELIN - LETTER TO ADLER RE NOTICE OF LAWSUIT - 7.29.14	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

1	976	Dave Waterbury Telephone Transcript	Defs: Defs MIL # 1, 11, FRE 802.		
2	977	2016.02.12 - LED ZEPPELIN - Plaintiff's Amended Disclosures	Defs: FRE 401-02, 403, 802.		
3	978	2016.02.11 - Supplemental Document Production of Plaintiff	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
4	979	2016.02.11 - Quinn Wolfe Receipt of Notification and MySpace Photo	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
5	980	LED ZEPPELIN - DISCO - CITE - FAC - 43 - GET THE LED OUT - DENNY SOMACH	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
6	981	LED ZEPPELIN - DISCO - CONTRACT - ACTUAL WRITER GETS SONGWRITIN G ROYALTIES (9.29.94)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
7	982	LED ZEPPELIN - DISCO - CONTRACT - BAND SHARES SONGWRITIN G ROYALTIES	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

	(1967)			
983	LED ZEPPELIN - DISCO - LED ZEPPELIN PLAYING SPIRIT SONG - FRESH GARBAGE (SERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
984	LED ZEPPELIN - DISCO - PAGE - INTERVIEW - ZIGZAG MAGAZINE - PETE FRAME (11.1972)(SERVED)	Defs: Defs MIL # 2, FRE 401-02, 403, 802, 805.		
985	LED ZEPPELIN - DISCO - SKIDMORE - REVIEW - DR. SARDONICUS (SERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
986	LED ZEPPELIN - DISCO - SKIDMORE - REVIEW - RELIX - (1997)(SERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
987	LED ZEPPELIN - DISCO - SKIDMORE - REVIEW - RELIX - OBITUARY (1982)(SERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

988	LED ZEPPELIN - DISCO - SKIDMORE - REVIEW - RELIX (1993)(SERVE D)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
989	LED ZEPPELIN - DISCO - SPIRIT - INTERVIEW - ROCK PAGE - STEVEN REINER (5.10.1971)(SE RVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
990	LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - 1ST SHOW - DENVER, CO (12.26.1968)(S ERVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
991	LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - ATLANTA POP FESTIVAL (1969)(SERVE D)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
992	LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - NORTHERN CALIFORNIA ROACK	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		

	FESTIVAL - SAN JOSE, CA (5.23.24.1969)(SERVED)			
993	LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - OLYMPIA STADIUM - DETROIT, MI (5.16.1969)(SE RVED)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
994	LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - SEATTLE POP FESTIVAL (1969)(SERVE D)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
995	LED ZEPPELIN - DISCO - SPIRIT & LED ZEPPELIN CONCERT - TEXAS POP FESTIVAL (1969)(SERVE D)	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
996	Guitar World - December 1993 Issue with interview of James Patrick Page	Defs: Defs MIL #3, #5, FRE 407, 408, 401-02, 403, 404		
997	2016.01.20 - LED ZEPPELIN - DISCO - IMAGE SCAN OF CDS	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise,		

	(SERVED)	objections reserved.		
998	Album - Led Zeppelin (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
999	Album - Led Zeppelin II (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1000	Album - Led Zeppelin III (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1001	Album - Untitled album known as Led Zeppelin IV (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1002	Album - Houses of the Holy (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1003	Album - Physical Graffiti (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1004	Album - Presence (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1005	Album - In Through the Out Door (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		

	released to public)			
1006	Album – Coda (as originally released to public)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1007	Album - Led Zeppelin (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1008	Album - Led Zeppelin II (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1009	Album – Led Zeppelin III (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1010	Album – Untitled album known as Led Zeppelin IV (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1011	Album – Houses of the Holy (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1012	Album – Physical Graffiti (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1013	Album – Presence (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1014	Album – In Through the Out Door (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		
1015	Album – Coda (as rereleased with credits changed)	Defs: Defs MIL # 5, FRE 407, 408, 401-02, 403, 404.		

1016	Album – Spirit by Spirit	Defs: Defs MIL # 3, FRE 401-02, 403.		
1017	Albums by Spirit pressed and distributed in multiple countries	Defs: Defs MIL # 3, FRE 401-02, 403.		
	All Discovery Plaintiffs and Defendants	Defs: failure to identify the exhibit, despite requests, making it impossible to specify objections; potentially duplicative of other exhibits, in which case objections as to those exhibits apply; otherwise, objections reserved.		
	Def First Set and Responses			
1018	Defs. Combined Request for Production (Set One) (8/14/2015)	Defs: FRE 401-02, 403.		
1019	Defs. Super Hype Publishing Interrogatories (Set One) (8/14/2015)	Defs: FRE 401-02, 403.		
1020	Defs. Combined Request for Admissions (Set One) (8/14/2015)	Defs: 401-02, 403.		
1021	Plt. Answer to Defs. Combined Requests for Admission Set One (9/16/2015)	Defs: if offered by pltlf, FRE 802.		
1022	Plt. Answer to Defs. Combined Docs Set One (9/16/2015)	Defs: if offered by pltlf, FRE 802.		
1023	Plt. Answer to Def. Super Hype Publishing	Defs: if offered by pltlf, FRE 802.		

	Interrogatories Set One (9/16/2015)			
1024	Plt. Amended Answer to Defs. Combined Requests for Admission Set One (10/20/2015)	Defs: if offered by pltlf, FRE 802.		
1025	Plt. Amended Answer to Defs. Combined Doc Requests Set One (10/20/2015)	Defs: if offered by pltlf, FRE 802.		
1026	Plt. Amended Answer to Def. Super Hype Publishing Interrogatories Set One (10/20/2015)	Defs: if offered by pltlf, FRE 802.		
1027	Plt. Second Amended Response to Super Hype Interrogatories Set One (12/7/2015)	Defs: if offered by pltlf, FRE 802.		
	Def Second Set and Responses			
1028	Def. Combined Request for Production Set Two (8/28/2015)	Defs: FRE 401-02, 403.		
1029	Def. Super Hype Publishing Interrogatories Set Two (8/28/2015)	Defs: FRE 401-02, 403.		
1030	Plt. Amended Answer to Super Hype Docs Set Two	Defs: if offered by pltlf, FRE 802.		

1031	Plt. Amended Answer to Super Hype Interrogatories Set Two	Defs: if offered by pltlf, FRE 802.		
1032	Plt. Amended Answer to Defs. Combined Docs Set Two (10/20/2015)	Defs: if offered by pltlf, FRE 802.		
1033	Plt. Amended Answer to Super Hype Interrogatories Set Two (10/20/2015)	Defs: if offered by pltlf, FRE 802.		
	Def Dec Discovery Requests			
1034	Def. Joint Request for Production Set Three (12/4/2015)	Defs: FRE 401-02, 403.		
1035	Def. Joint Request for Admissions Set Two (12/4/2015)	Defs: 401-02, 403.		
1036	Def. Warner/Chappe II Interrogatories Set Two (12/4/2015)	Defs: 401-02, 403.		
1037	Plt. Response to Combined Defs. Request for Production Set Three (2/5/2016)	Defs: if offered by pltlf, FRE 802.		
1038	Plt. Response to Combined Defs. Requests for Admissions Set Two (2/5/2016)	Defs: if offered by pltlf, FRE 802.		

1039	Plt. Response to Warner Chappell Interrogatories Set Two (2/5/2016)	Defs: if offered by pltlf, FRE 802.		
	Plt. Requets and Responses			
1040	Plt Interrogatories to Page (10/13/2015)			
1041	Plt Interrogatories to Plant (10/13/2015)			
1042	Plt Interrogatories to Jones (10/13/2015)			
1043	Plt Interrogatories to Warner Music Group Corp. (10/13/2015)			
1044	Plt Interrogatories to Super Hype Publishing, Inc. (10/13/2015)			
1045	Plt Interrogatories to Warner/Chappel Music, Inc. (10/13/2015)			
1046	Plt Interrogatories to Atlantic Recording Corp. (10/13/2015)			
1047	Plt Interrogatories to Rhino Entertainment			

	(10/13/2015)			
1048	Def. Page Response to Interrogatories (11/23/2015)			
1049	Def. Plant Response to Interrogatories (11/23/2015)			
1050	Def. Jones Response to Interrogatories (11/23/2015)			
1051	Def Warner Music Group Response to Interrogatories (11/23/2015)			
1052	Def. Super Hype Publishing Response to Interrogatories (11/23/2015)			
1053	Def. Warner/Chappe ll Music Response to Interrogatories (11/23/2015)			
1054	Def. Atlantic Recording Corp. Response to Interrogatories (11/23/2015)			
1055	Def. Rhino Entertainment Response to Interrogatories (11/23/2015)			
1056	Def. Page Supp. Response to Interrogatories (1/5/2016)			

1	1057	Def. Plant Supp. Response to Interrogatories (1/5/2016) [Blietz458]		
2	1058	Def. Jones Supp. Response to Interrogatories (1/5/2016)		
3	1059	Def. Warner/Chappe ll Music Supp. Response to Interrogatories (1/26/2016)		
4	1060	Def. Atlantic Recording Corp. Supp. Response to Interrogatories (1/26/2016)		
5	1061	Def. Rhino Entertainment Supp. Response to Interrogatories (1/26/2016)		
6	1062	Plt Requests for Doc. Production to Page (10/13/2015)		
7	1063	Plt Requests for Doc. Production to Plant (10/13/2015)		
8	1064	Plt Requests for Doc. Production to Jones (10/13/2015)		
9	1065	Plt Requests for Doc. Production to Warner Music Group Corp. (10/13/2015)		

1066	Plt Requests for Doc. Production to Super Hype Publishing, Inc. (10/13/2015)			
1067	Plt Requests for Doc. Production to Warner/Chappe ll Music, Inc. (10/13/2015)			
1068	Plt Requests for Doc. Production to Atlantic Recording Corp. (10/13/2015)			
1069	Plt Requests for Doc. Production to Rhino Entertainment (10/13/2015)			
1070	Def. Combined Omnibus Response to Request for Production (11/23/2015)			
1071	Def. Supplemental Response to Request for Production (12/29/2015)			
	Plt. Second Document Request and Answer			
1072	Plt Request for Production to All Defendants (1/8/2016)			
1073	Def. Joint Response to Plt Request for Production (2/8/2016)			

	Docket/Pleadings			
3001	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 102000.), filed by MICHAEL SKIDMORE. (Attachments: # 1 Civil Cover Sheet, # 2 Case Management Track Form, # 3 Designation Form)(ks,) [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 06/02/2014) (FILED 05/31/2014) (ECF No. 1)	Defs: Defs MIL # 1, # 2, # 3, # 5, # 8, #14; FRE 401-02, 403, 404, 407, 408, 701-05, 802 & 805; assertions as to substantial similarity barred by failure to timely provide expert disclosures as to relevant work (1967 transcription), FRCP 26(a), 26(e) & 37(c)(1).		
3002	Disclosure Statement Form pursuant to FRCP 7.1 by MICHAEL SKIDMORE.(ks,) [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 06/02/2014) (FILED 05/31/2014) (ECF No. 2)	Defs: FRE 401-02, 403.		

1	3003	Copy of Form to Register of Copyrights. (ks,) [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 06/02/2014) (FILED 05/31/2014) (ECF No. 3)	Defs: FRE 401-02, 403.		
2	3004	PRAECIPE to Issue Alias Summons for defendants <i>Led Zeppelin, James Patrick Page, Robert Anthony Plant, John Paul Jones, Super Hype Publishing, Inc., and Warner Music Group Corp.</i> by MICHAEL SKIDMORE. (MALOFIY, FRANCIS) Modified on 7/21/2014 (nd,) [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 07/21/2014) (FILED 07/10/2014) (ECF No. 4)	Defs: FRE 401-02, 403.		

1		AFFIDAVIT of		
2		Service by		
3		Thomas Crean,		
4		Jr. re: served		
5		Complaint,		
6		Disclosure		
7		Statement,		
8		Report re:		
9	3005	Copyright Case	Defs: FRE 401-02, 403.	
10		upon Joe Bertie		
11		by Personal		
12		Service on 7 31-		
13		14, answer due		
14		8/21/14.		
15		(MALOFIY,		
16		FRANCIS)		
17		Modified on		
18		8/6/2014 (md).		
19		[Transferred		
20		from		
21		Pennsylvania		
22		Eastern on		
23		5/11/2015.]		
24		(Entered:		
25		08/05/2014)		
26		(FILED		
27		08/05//2014)		
28		(ECF No. 5)		
	3006	AFFIDAVIT of	Defs: FRE 401-02, 403.	
		Service by		
		Thomas Crean,		
		Jr. re: served		
		Complaint,		
		Disclosure		
		Statement,		
		Report re:		
		Copyright Case		
		upon Jeo Bertie		
		who is		
		designated by		
		law to accept		
		service of		
		process on		
		behalf of James		
		Patrick Page by		
		Personal		
		Service on 731-		
		14, answer due		

1		8/21/14. (MALOFIY, FRANCIS) Modified on 8/6/2014 (md). [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 08/05/2014) (FILED 08/05/2014) (ECF No. 6)		
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10		AFFIDAVIT of Service by Thomas Crean, Jr. re: served Complaint, Disclosure Statement, Report re: Copyright Case upon Joe Bertie who is designated by law to accept service of process on behalf of Robert Anthony Plant by Personal Service on 731- 14, answer due 8/21/14. (MALOFIY, FRANCIS) Modified on 8/6/2014 (md). [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 08/05/2014) (FILED	Def: FRE 401-02, 403.	
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	08/05//2014) (ECF No. 7)			
3008	AFFIDAVIT of Service by Thomas Crean, Jr. re: served Complaint, Disclousure Statement, Report re: Copyright Case upon Joe Bertie who is designated by law to accept service of process on behalf on John Paul Jones by Personal Service on 7 31- 14, answer due 8/21/14. (MALOFIY, FRANCIS) Modified on 8/6/2014 (md). [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 08/05/2014) (FILED 08/05//2014) (ECF No. 8)	Def: FRE 401-02, 403.		

1		AFFIDAVIT of		
2		Service by		
3		Thomas Crean,		
4		Jr. re: served		
5		Complaint,		
6		Disclosure		
7		Statement,		
8		Report re:		
9		Copyright Case		
10		upon Joe Bertie		
11	3009	who is	Defs: FRE 401-02, 403.	
12		designated by		
13		law to accept		
14		service of		
15		process on		
16		behalf of Super		
17		Hype		
18		Publishing Inc.		
19		by Personal		
20		Service on 731-		
21		14, answer due		
22		8/21/14.		
23		(MALOFIY,		
24		FRANCIS)		
25		Modified on		
26		8/6/2014 (md).		
27		[Transferred		
28		from		
		Pennsylvania		
		Eastern on		
		5/11/2015.]		
		(Entered:		
		08/05/2014)		
		(FILED		
		08/05//2014)		
		(ECF No. 9)		
		AFFIDAVIT of		
		Service by		
		Thomas Crean,		
		Jr. re: served		
	3010	Complaint,	Defs: FRE 401-02, 403.	
		Disclosure		
		Statement,		
		Report re:		
		Copyright Case		
		upon Elena Bou		
		who is		
		designated by		

1		law to accept		
2		service of		
3		process on		
4		behalf of Super		
5		Hype		
6		Publishing, Inc.		
7		by Personal		
8		Service on 731-		
9		14, answer due		
10		8/21/14.		
11		(MALOFIY,		
12		FRANCIS)		
13		Modified on		
14		8/6/2014 (md).		
15		[Transferred		
16		from		
17		Pennsylvania		
18		Eastern on		
19		5/11/2015.]		
20		(Entered:		
21		08/05/2014)		
22		(FILED		
23		08/05//2014)		
24		(ECF No. 10)		
25	3011	AFFIDAVIT of		
26		Service by		
27		Thomas Crean,		
28		Jr. re: served		
		Complaint,		
		Disclousure		
		Statement,		
		Report re:		
		Copyright Case		
		upon Joe Bertie		
		who is		
		designated by		
		law to accept		
		service of		
		process on		
		behalf of		
		Warner Music		
		Group Corp. by		
		Personal		
		Service on 731-		
		14, answer due		
		8/21/14.		
		(MALOFIY,		
		FRANCIS)		

Defs: FRE 401-02, 403.

1		Modified on 8/6/2014 (md). [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 08/05/2014) (FILED 08/05//2014) (ECF No. 11)		
2				
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8		AFFIDAVIT of Service by Thomas Crean, Jr. re: served Complaint, Disclousure Statement, Report re: Copyright Case upon Joe Bertie who is designated by law to accept service of process on behalf of Warner Chappell Music, Inc. by Personal Service on 731- 14, answer due 8/21/14. (MALOFIY, FRANCIS) Modified on 8/6/2014 (md). [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 08/05/2014) FILED 08/05//2014)	3012	Defs: FRE 401-02, 403.
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	(ECF No. 12)			
3013	<p>AFFIDAVIT of Service by Thomas Crean, Jr. re: served Complaint, Disclosure Statement, Report re: Copyright Case upon Joe Bertie who is designated by law to accept service of process on behalf of Rhino Entertainment by Personal Service on 731-14, answer due 8/21/14. (MALOFIY, FRANCIS) Modified on 8/6/2014 (md). [Transferred from Pennsylvania Eastern on 5/11/2015.] (Entered: 08/05/2014) (FILED 08/05/2014) (ECF No. 13)</p>	Def: FRE 401-02, 403.		

1		AFFIDAVIT of		
2		Service by		
3		Thomas Crean,		
4		Jr. re: served		
5		Complaint,		
6		Disclosure		
7		Statement,		
8		Report re:		
9		Copyright Case		
10		upon Joe Bertie		
11	3014	who is	Defs: FRE 401-02, 403.	
12		designated by		
13		law to accept		
14		service of		
15		process on		
16		behalf of		
17		Atlantic		
18		Recording		
19		Corp. by		
20		Personal		
21		Service on 731-		
22		14, answer due		
23		8/21/14.		
24		(MALOFIY,		
25		FRANCIS)		
26		Modified on		
27		8/6/2014 (md).		
28		[Transferred		
		from		
		Pennsylvania		
		Eastern on		
		5/11/2015.]		
		(Entered:		
		08/05/2014)		
		FILED		
		08/05//2014)		
		(ECF No. 14)		
	3015	AFFIDAVIT of	Defs: FRE 401-02, 403.	
		Service by		
		Albert G. Mentz		
		re: served		
		Complaint,		
		Disclosure		
		Statement,		
		Report upon		
		Amy McLaren,		
		Manager, who		
		is designated by		